

**As Pending in the Senate Finance and Financial Institutions  
Committee**

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

**Sub. H. B. No. 95**

**Representative Calvert**

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**A B I L L**

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5747.131, and 5747.60 of the Revised Code; to 184  
amend Sections 11 and 11.04 of Am. Sub. H.B. 87 of 185  
the 125th General Assembly; to amend Section 13.05 186  
of Am. Sub. H.B. 87 of the 125th General Assembly; 187  
to amend Section 2 of Am. Sub. H.B. 71 of the 188  
120th General Assembly, and Section 6 of Am. Sub. 189

S.B. 67 of the 122nd General Assembly; to amend 190  
Sections 1.09 and 35.03 of H.B. 675 of the 124th 191  
General Assembly; to amend Sections 18.03 and 192  
18.04 of H.B. 675 of the 124th General Assembly; 193  
to amend Sections 10 and 14 of Am. Sub. S.B. 242 194  
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amended; to amend Section 3 of Am. Sub. H.B. 621 199  
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of the 121st General Assembly, as subsequently 202  
amended; to amend Section 27 of Sub H.B. 670 of 203  
the 121st General Assembly, as subsequently 204  
amended; to amend Section 5 of Am. Sub. S.B. 50 of 205  
the 121st General Assembly, as subsequently 206  
amended; to repeal section 63.37 of Am. Sub. H.B. 207  
94 of the 124th General Assembly, as subsequently 208  
amended; to repeal Section 16 of Am. Sub. H.B. 87 209  
of the 125th General Assembly; to repeal Section 210  
129 of Am. Sub. H.B. 283 of the 123rd General 211  
Assembly, as subsequently amended; to repeal 212  
Section 3 of Sub. H.B. 403 of the 123rd General 213  
Assembly; to repeal Section 3 of Am. Sub. S.B. 272 214  
of the 123rd General Assembly, as subsequently 215  
amended; and to repeal Section 11 of Am. Sub. S.B. 216  
50 of the 121st General Assembly, as subsequently 217  
amended; to levy taxes and provide for 218  
implementation of those levies, to make operating 219  
appropriations for the biennium beginning July 1, 220  
2003, and ending June 30, 2005, and to provide 221  
authorization and conditions for the operation of 222

state programs; to amend the version of section 223  
921.22 of the Revised Code that is scheduled to 224  
take effect July 1, 2004, to continue the 225  
provisions of this act on and after that effective 226  
date; to amend the version of section 2305.234 of 227  
the Revised Code that is scheduled to take effect 228  
January 1, 2004, to continue the provisions of 229  
this act on and after that effective date; to 230  
amend the version of section 3332.04 of the 231  
Revised Code that is scheduled to take effect July 232  
1, 2003; to amend the version of section 3734.44 233  
of the Revised Code that is scheduled to take 234  
effect January 1, 2004, to continue the provisions 235  
of this act on and after that effective date; to 236  
amend the versions of sections 307.93, 2152.19, 237  
2929.38, 4511.33, and 4511.75 of the Revised Code 238  
that are scheduled to take effect January 1, 2004; 239  
to amend the version of section 5101.28 of the 240  
Revised Code that is scheduled to take effect 241  
January 1, 2004, to continue the provisions of 242  
this act on and after that effective date; to 243  
amend the version of section 5743.45 of the 244  
Revised Code that is scheduled to take effect 245  
January 1, 2004, to continue the provisions of 246  
this act on and after that effective date; to 247  
amend the version of section 5739.033 of the 248  
Revised Code as it results from Am. Sub. S.B. 143 249  
of the 124th General Assembly, as amended by H.B. 250  
675 of the 124th General Assembly; and to 251  
terminate certain provisions of this act on 252  
December 31, 2013, by repealing section 4723.063 253  
of the Revised Code on that date. 254  
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**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, 256  
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be amended; that sections 3301.33 (3301.40), 3701.145 (3701.0210), 351  
4104.46 (4104.48), 5108.06 (5108.04), 5108.07 (5108.05), 5111.08 352  
(5111.071), 5111.16 (5111.08), 5111.252 (5123.199), 5115.02 353  
(5115.04), 5115.04 (5115.02), 5115.07 (5115.06), 5115.13 354  
(5115.07), and 5115.15 (5115.23) be amended for the purpose of 355  
adopting new section numbers as indicated in parentheses; and that 356  
new sections 718.03, 3301.31, 3301.33, 3317.11, 3318.052, 4104.42, 357  
4104.43, 4104.46, 5108.06, 5108.07, 5111.16, 5111.173, 5115.13, 358  
and 5739.034 and sections 9.24, 107.12, 107.31, 107.32, 107.33, 359  
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5123.851, 5139.44, 5502.03, 5703.56, 5703.58, 5703.80, 5717.011, 376  
5733.0511, 5733.55, 5733.56, 5733.57, 5735.053, 5741.25, 5743.051, 377  
5745.042, 5745.044, and 5747.026 of the Revised Code be enacted to 378  
read as follows: 379

**Sec. 9.01.** When any officer, office, court, commission, 380  
board, institution, department, agent, or employee of the state, 381  
~~or~~ of a county, or of any other political subdivision, who is 382

charged with the duty or authorized or required by law to record, 383  
preserve, keep, maintain, or file any record, document, plat, 384  
court file, paper, or instrument in writing, or to make or furnish 385  
copies of any ~~thereof~~ of them, deems it necessary or advisable, 386  
when recording ~~any such document, plat, court file, paper, or~~ 387  
~~instrument in writing,~~ or ~~when~~ making a copy or reproduction of 388  
any ~~thereof~~ of them or of any such record, for the purpose of 389  
recording or copying, preserving, and protecting ~~the same~~ them, 390  
reducing space required for storage, or any similar purpose, to do 391  
so by means of any photostatic, photographic, miniature 392  
photographic, film, microfilm, or microphotographic process, or 393  
perforated tape, magnetic tape, other magnetic means, electronic 394  
data processing, machine readable means, or graphic or video 395  
display, or any combination ~~thereof~~ of those processes, means, or 396  
displays, which correctly and accurately copies, records, or 397  
reproduces, or provides a medium of copying, recording, or 398  
reproducing, the original record, document, plat, court file, 399  
paper, or instrument in writing, such use of any ~~such photographic~~ 400  
~~or electromagnetic~~ of those processes, means, or displays for any 401  
such purpose, is hereby authorized. Any such records, copies, or 402  
reproductions may be made in duplicate, and ~~such~~ the duplicates 403  
shall be stored in different buildings. The film or paper used for 404  
~~this~~ a process shall comply with the minimum standards of quality 405  
approved for permanent photographic records by the national bureau 406  
of standards. All such records, copies, or reproductions shall 407  
carry a certificate of authenticity and completeness, on a form 408  
specified by the director of administrative services through the 409  
state records ~~administrator~~ program. 410

Any such officer, office, court, commission, board, 411  
institution, department, agent, or employee of the state, of a 412  
county, or of any other political subdivision may purchase or rent 413  
required equipment for any such photographic process and may enter 414  
into contracts with private concerns or other governmental 415

agencies for the development of film and the making of 416  
reproductions ~~thereof~~ of film as a part of any such photographic 417  
process. When so recorded, or copied or reproduced to reduce space 418  
required for storage or filing of such records, ~~said~~ such 419  
photographs, microphotographs, microfilms, perforated tape, 420  
magnetic tape, other magnetic means, electronic data processing, 421  
machine readable means, graphic or video display, or ~~any~~ 422  
combination ~~thereof~~ of these processes, means, or displays, or 423  
films, or prints made therefrom, when properly identified by the 424  
officer by whom or under whose supervision ~~the same~~ they were 425  
made, or who has ~~the~~ their custody ~~thereof~~, have the same effect 426  
at law as the original record or of a record made by any other 427  
legally authorized means, and may be offered in like manner and 428  
shall be received in evidence in any court where ~~such~~ the original 429  
record, or record made by other legally authorized means, could 430  
have been so introduced and received. Certified or authenticated 431  
copies or prints of such photographs, microphotographs, films, 432  
microfilms, perforated tape, magnetic tape, other magnetic means, 433  
electronic data processing, machine readable means, graphic or 434  
video display, or ~~any~~ combination ~~thereof~~ of these processes, 435  
means, or displays, shall be admitted in evidence equally with the 436  
original ~~photographs, microphotographs, films, or microfilms.~~ 437

Such photographs, microphotographs, microfilms, or films 438  
shall be placed and kept in conveniently accessible, fireproof, 439  
and insulated files, cabinets, or containers, and provisions shall 440  
be made for preserving, safekeeping, using, examining, exhibiting, 441  
projecting, and enlarging ~~the same~~ them whenever requested, during 442  
office hours. 443

All persons utilizing the methods described in this section 444  
for keeping records and information shall keep and make readily 445  
available to the public the machines and equipment necessary to 446  
reproduce the records and information in a readable form. 447

Sec. 9.24. (A) No state agency and no political subdivision shall award a contract for goods, services, or construction, paid for in whole or in part with state funds, to a person who owes a debt to the state if the debt at the time the contract is awarded is unresolved. 448  
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452

(B) For purposes of this section, a debt is unresolved unless one of the following criteria applies to the debt: 453  
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(1) The debt is certified as paid in full by the state agency or political subdivision to whom the debt was owed; 455  
456

(2) The debtor has entered into a repayment plan that is approved by the attorney general and the state agency or political subdivision to whom the debt is owed. A repayment plan may include a provision permitting a state agency or political subdivision to withhold payment to a debtor for goods, services, or construction provided to or for the state agency or political subdivision pursuant to a contract that is entered into with the debtor after the date the unresolved debt was incurred. 457  
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(3) The attorney general waives a repayment plan described in division (B)(2) of this section for good cause; 465  
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(4) The debtor and state agency or political subdivision to whom the debt is owed have agreed to a payment plan established through a settlement. 467  
468  
469

(5) The state agency or political subdivision desiring to enter into a contract with a debtor certifies, and the attorney general concurs, that all of the following are true: 470  
471  
472

(a) Essential services the state agency or political subdivision is seeking to obtain from the debtor cannot be provided by any other person besides the debtor; 473  
474  
475

(b) Awarding a contract to the debtor for the essential services described in division (B)(5)(a) is in the best interest 476  
477

of the state; 478

(c) Good faith efforts have been made to collect the debt 479  
owed. 480

(C) The auditor of state shall maintain a database, 481  
accessible to the public, listing persons who owe an unresolved 482  
debt to the state and the amount of the unresolved debt. The 483  
auditor of state shall have this database operational on or before 484  
January 1, 2004. The initial database shall contain the 485  
information required under division (C) of this section for 486  
calendar years 2001, 2002, and 2003. 487

(D) Before awarding a contract for goods, services, or 488  
construction, paid for in whole or in part with state funds, a 489  
state agency or political subdivision shall verify that the person 490  
to whom the state agency or political subdivision plans to award 491  
the contract does not appear in the database described in division 492  
(C) of this section. 493

(E) As used in this section, "state agency" has the same 494  
meaning as in section 9.66 of the Revised Code. 495

**Sec. 9.83.** (A) The state and any political subdivision may 496  
procure a policy or policies of insurance insuring its officers 497  
and employees against liability for injury, death, or loss to 498  
person or property that arises out of the operation of an 499  
automobile, truck, motor vehicle with auxiliary equipment, 500  
self-propelling equipment or trailer, aircraft, or watercraft by 501  
the officers or employees while engaged in the course of their 502  
employment or official responsibilities for the state or the 503  
political subdivision. The state is authorized to expend funds to 504  
pay judgments that are rendered in any court against its officers 505  
or employees and that result from such operation, and is 506  
authorized to expend funds to compromise claims for liability 507  
against its officers or employees that result from such operation. 508



No insurer shall deny coverage under such a policy, and the state shall not refuse to pay judgments or compromise claims, on the ground that an automobile, truck, motor vehicle with auxiliary equipment, self-propelling equipment or trailer, aircraft, or watercraft was not being used in the course of an officer's or employee's employment or official responsibilities for the state or a political subdivision unless the officer or employee who was operating an automobile, truck, motor vehicle with auxiliary equipment, or self-propelling equipment or trailer is convicted of a violation of section 124.71 of the Revised Code as a result of the same events.

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

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

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

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

which the prisoner is required to operate a motor vehicle, as 541  
defined in section 4509.01 of the Revised Code, and who is engaged 542  
in the operation of a motor vehicle in the course of the work 543  
program. 544

(F) There is hereby created in the state treasury the vehicle 545  
liability fund. All contributions collected by the director of 546  
administrative services under division (I) of this section shall 547  
be deposited into the fund. The fund shall be used to provide 548  
insurance and self-insurance for the state under this section. All 549  
investment earnings of the fund shall be credited to it. 550

(G) The director of administrative services, through the 551  
office of risk management, shall operate the vehicle liability 552  
fund on an actuarially sound basis. 553

(H) Reserves shall be maintained in the vehicle liability 554  
fund in any amount that is necessary and adequate, in the exercise 555  
of sound and prudent actuarial judgment, to cover potential 556  
liability claims, expenses, fees, or damages. Money in the fund 557  
may be applied to the payment of liability claims that are filed 558  
against the state in the court of claims and determined in the 559  
manner provided in Chapter 2743. of the Revised Code. The director 560  
of administrative services may procure the services of a qualified 561  
actuarial firm for the purpose of recommending the specific amount 562  
of money that is required to maintain adequate reserves for a 563  
specified period of time. 564

(I) The director of administrative services shall collect 565  
from each state agency or any participating state body its 566  
contribution to the vehicle liability fund for the purpose of 567  
purchasing insurance or administering self-insurance programs for 568  
coverage authorized under this section. The amount of the 569  
contribution shall be determined by the director, with the 570  
approval of the director of budget and management. It shall be 571  
based upon actuarial assumptions and the relative risk and loss 572

experience of each state agency or participating state body. The 573  
amount of the contribution also shall include a reasonable sum to 574  
cover administrative costs of the department of administrative 575  
services. 576

**Sec. 101.34.** (A) There is hereby created a joint legislative 577  
ethics committee to serve the general assembly. The committee 578  
shall be composed of twelve members, six each from the two major 579  
political parties, and each member shall serve on the committee 580  
during the member's term as a member of that general assembly. Six 581  
members of the committee shall be members of the house of 582  
representatives appointed by the speaker of the house of 583  
representatives, not more than three from the same political 584  
party, and six members of the committee shall be members of the 585  
senate appointed by the president of the senate, not more than 586  
three from the same political party. A vacancy in the committee 587  
shall be filled for the unexpired term in the same manner as an 588  
original appointment. The members of the committee shall be 589  
appointed within fifteen days after the first day of the first 590  
regular session of each general assembly and the committee shall 591  
meet and proceed to recommend an ethics code not later than thirty 592  
days after the first day of the first regular session of each 593  
general assembly. 594

In the first regular session of each general assembly, the 595  
speaker of the house of representatives shall appoint the 596  
chairperson of the committee from among the house members of the 597  
committee and the president of the senate shall appoint the 598  
vice-chairperson of the committee from among the senate members of 599  
the committee. In the second regular session of each general 600  
assembly, the president of the senate shall appoint the 601  
chairperson of the committee from among the senate members of the 602  
committee and the speaker of the house of representatives shall 603  
appoint the vice-chairperson of the committee from among the house 604

members of the committee. The chairperson, vice-chairperson, and 605  
members of the committee shall serve until their respective 606  
successors are appointed or until they are no longer members of 607  
the general assembly. 608

The committee shall meet at the call of the chairperson or 609  
upon the written request of seven members of the committee. 610

(B) The joint legislative ethics committee: 611

(1) Shall recommend a code of ethics which is consistent with 612  
law to govern all members and employees of each house of the 613  
general assembly and all candidates for the office of member of 614  
each house; 615

(2) May receive and hear any complaint which alleges a breach 616  
of any privilege of either house, or misconduct of any member, 617  
employee, or candidate, or any violation of the appropriate code 618  
of ethics; 619

(3) May obtain information with respect to any complaint 620  
filed pursuant to this section and to that end may enforce the 621  
attendance and testimony of witnesses, and the production of books 622  
and papers; 623

(4) May recommend whatever sanction is appropriate with 624  
respect to a particular member, employee, or candidate as will 625  
best maintain in the minds of the public a good opinion of the 626  
conduct and character of members and employees of the general 627  
assembly; 628

(5) May recommend legislation to the general assembly 629  
relating to the conduct and ethics of members and employees of and 630  
candidates for the general assembly; 631

(6) Shall employ an executive director for the committee and 632  
may employ such other staff as the committee determines necessary 633  
to assist it in exercising its powers and duties. The executive 634

director and staff of the committee shall be known as the office 635  
of legislative inspector general. At least one member of the staff 636  
of the committee shall be an attorney at law licensed to practice 637  
law in this state. The appointment and removal of the executive 638  
director shall require the approval of at least eight members of 639  
the committee. 640

(7) May employ a special counsel to assist the committee in 641  
exercising its powers and duties. The appointment and removal of a 642  
special counsel shall require the approval of at least eight 643  
members of the committee. 644

(8) Shall act as an advisory body to the general assembly and 645  
to individual members, candidates, and employees on questions 646  
relating to ethics, possible conflicts of interest, and financial 647  
disclosure; 648

(9) Shall provide for the proper forms on which the statement 649  
required pursuant to section 102.02 of the Revised Code shall be 650  
filed and instructions as to the filing of the statement; 651

(10) Exercise the powers and duties prescribed under sections 652  
101.70 to 101.79 and 121.60 to 121.69 of the Revised Code; 653

(11) Adopt in accordance with section 111.15 of the Revised 654  
Code any rules that are necessary to implement and clarify Chapter 655  
102. and sections 2921.42 and 2921.43 of the Revised Code. 656

(C) There is hereby created in the state treasury the joint 657  
legislative ethics committee fund. ~~All money collected from~~ 658  
~~registration fees and late filing fees prescribed under sections~~ 659  
~~101.72 and 121.62 of the Revised Code shall be deposited into the~~ 660  
~~state treasury to the credit of the fund.~~ Money credited to the 661  
fund and any interest and earnings from the fund shall be used 662  
solely for the operation of the joint legislative ethics committee 663  
and the office of legislative inspector general and for the 664  
purchase of data storage and computerization facilities for the 665

statements filed with the joint committee under sections 101.73, 666  
101.74, 121.63, and 121.64 of the Revised Code. 667

(D) The chairperson of the joint committee shall issue a 668  
written report, not later than the thirty-first day of January of 669  
each year, to the speaker and minority leader of the house of 670  
representatives and to the president and minority leader of the 671  
senate that lists the number of committee meetings and 672  
investigations the committee conducted during the immediately 673  
preceding calendar year and the number of advisory opinions it 674  
issued during the immediately preceding calendar year. 675

(E) Any investigative report that contains facts and findings 676  
regarding a complaint filed with the committee and that is 677  
prepared by the staff of the committee or a special counsel to the 678  
committee shall become a public record upon its acceptance by a 679  
vote of the majority of the members of the committee, except for 680  
any names of specific individuals and entities contained in the 681  
report. If the committee recommends disciplinary action or reports 682  
its findings to the appropriate prosecuting authority for 683  
proceedings in prosecution of the violations alleged in the 684  
complaint, the investigatory report regarding the complaint shall 685  
become a public record in its entirety. 686

(F)(1) Any file obtained by or in the possession of the 687  
former house ethics committee or former senate ethics committee 688  
shall become the property of the joint legislative ethics 689  
committee. Any such file is confidential if either of the 690  
following applies: 691

(a) It is confidential under section 102.06 of the Revised 692  
Code or the legislative code of ethics. 693

(b) If the file was obtained from the former house ethics 694  
committee or from the former senate ethics committee, it was 695  
confidential under any statute or any provision of a code of 696

ethics that governed the file. 697

(2) As used in this division, "file" includes, but is not 698  
limited to, evidence, documentation, or any other tangible thing. 699

**Sec. 101.72.** (A) Each legislative agent and employer, within 700  
ten days following an engagement of a legislative agent, shall 701  
file with the joint legislative ethics committee an initial 702  
registration statement showing all of the following: 703

(1) The name, business address, and occupation of the 704  
legislative agent; 705

(2) The name and business address of the employer and the 706  
real party in interest on whose behalf the legislative agent is 707  
actively advocating, if it is different from the employer. For the 708  
purposes of division (A) of this section, where a trade 709  
association or other charitable or fraternal organization that is 710  
exempt from federal income taxation under subsection 501(c) of the 711  
federal Internal Revenue Code is the employer, the statement need 712  
not list the names and addresses of each member of the association 713  
or organization, so long as the association or organization itself 714  
is listed. 715

(3) A brief description of the type of legislation to which 716  
the engagement relates. 717

(B) In addition to the initial registration statement 718  
required by division (A) of this section, each legislative agent 719  
and employer shall file with the joint committee, not later than 720  
the last day of January, May, and September of each year, an 721  
updated registration statement that confirms the continuing 722  
existence of each engagement described in an initial registration 723  
statement and that lists the specific bills or resolutions on 724  
which the agent actively advocated under that engagement during 725  
the period covered by the updated statement, and with it any 726

statement of expenditures required to be filed by section 101.73 727  
of the Revised Code and any details of financial transactions 728  
required to be filed by section 101.74 of the Revised Code. 729

(C) If a legislative agent is engaged by more than one 730  
employer, the agent shall file a separate initial and updated 731  
registration statement for each engagement. If an employer engages 732  
more than one legislative agent, the employer need file only one 733  
updated registration statement under division (B) of this section, 734  
which shall contain the information required by division (B) of 735  
this section regarding all of the legislative agents engaged by 736  
the employer. 737

(D)(1) A change in any information required by division 738  
(A)(1), (2), or (B) of this section shall be reflected in the next 739  
updated registration statement filed under division (B) of this 740  
section. 741

(2) Within thirty days after the termination of an 742  
engagement, the legislative agent who was employed under the 743  
engagement shall send written notification of the termination to 744  
the joint committee. 745

(E) Except as otherwise provided in this division, a 746  
registration fee of ~~ten~~ twenty-five dollars shall be charged for 747  
filing an initial registration statement. All money collected from 748  
registration fees under this division and late filing fees under 749  
division (G) of this section shall be deposited ~~to the credit of~~ 750  
~~the joint legislative ethics committee fund created under section~~ 751  
~~101.34 of the Revised Code~~ into the general revenue fund of the 752  
state. 753

An officer or employee of a state agency who actively 754  
advocates in a fiduciary capacity as a representative of that 755  
state agency need not pay the registration fee prescribed by this 756  
division or file expenditure statements under section 101.73 of 757



the Revised Code. As used in this division, "state agency" does 758  
not include a state institution of higher education as defined in 759  
section 3345.011 of the Revised Code. 760

(F) Upon registration pursuant to division (A) of this 761  
section, the legislative agent shall be issued a card by the joint 762  
committee showing that the legislative agent is registered. The 763  
registration card and the legislative agent's registration shall 764  
be valid from the date of their issuance until the next 765  
thirty-first day of December of an even-numbered year. 766

(G) The executive director of the joint committee shall be 767  
responsible for reviewing each registration statement filed with 768  
the joint committee under this section and for determining whether 769  
the statement contains all of the information required by this 770  
section. If the joint committee determines that the registration 771  
statement does not contain all of the required information or that 772  
a legislative agent or employer has failed to file a registration 773  
statement, the joint committee shall send written notification by 774  
certified mail to the person who filed the registration statement 775  
regarding the deficiency in the statement or to the person who 776  
failed to file the registration statement regarding the failure. 777  
Any person so notified by the joint committee shall, not later 778  
than fifteen days after receiving the notice, file a registration 779  
statement or an amended registration statement that does contain 780  
all of the information required by this section. If any person who 781  
receives a notice under this division fails to file a registration 782  
statement or such an amended registration statement within this 783  
fifteen-day period, the joint committee shall assess a late filing 784  
fee equal to twelve dollars and fifty cents per day, up to a 785  
maximum of one hundred dollars, upon that person. The joint 786  
committee may waive the late filing fee for good cause shown. 787

(H) On or before the fifteenth day of March of each year, the 788  
joint committee shall, in the manner and form that it determines, 789

publish a report containing statistical information on the 790  
registration statements filed with it under this section during 791  
the preceding year. 792

**Sec. 101.82.** As used in sections 101.82 to 101.87 of the 793  
Revised Code: 794

(A) "Agency" means any board, commission, committee, or 795  
council, or any other similar state public body required to be 796  
established pursuant to state statutes for the exercise of any 797  
function of state government and to which members are appointed or 798  
elected. "Agency" does not include the following: 799

(1) The general assembly, or any commission, committee, or 800  
other body composed entirely of members ~~thereof~~ of the general 801  
assembly; 802

(2) Any court; 803

(3) Any public body created by or directly pursuant to the 804  
constitution of this state; 805

(4) The board of trustees of any institution of higher 806  
education financially supported in whole or in part by the state; 807

(5) Any public body that has the authority to issue bonds or 808  
notes or that has issued bonds or notes that have not been fully 809  
repaid; 810

(6) The public utilities commission of Ohio; 811

(7) The consumers' council governing board; 812

(8) The Ohio board of regents; 813

(9) Any state board or commission that has the authority to 814  
issue any final adjudicatory order that may be appealed to the 815  
court of common pleas under Chapter 119. of the Revised Code; 816

(10) Any board of elections; 817

(11) The board of directors of the Ohio insurance guaranty association and the board of governors of the Ohio fair plan underwriting association;	818 819 820
(12) The Ohio public employees deferred compensation board;	821
(13) The Ohio retirement study council;	822
(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;	823 824 825 826
(15) The industrial commission.	827
(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 <del>(H)</del> <u>(E)</u> of section 149.331 of the Revised Code.	828 829 830 831
(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.	832 833 834 835
(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.	836 837 838
(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.	839 840 841
<b>Sec. 102.02.</b> (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 fill a vacancy for an unexpired term in such an elective office;	842 843 844 845 846

all members of the state board of education; the director, 847  
assistant directors, deputy directors, division chiefs, or persons 848  
of equivalent rank of any administrative department of the state; 849  
the president or other chief administrative officer of every state 850  
institution of higher education as defined in section 3345.011 of 851  
the Revised Code; the chief executive officer of each state 852  
retirement system; all members of the board of commissioners on 853  
grievances and discipline of the supreme court and the ethics 854  
commission created under section 102.05 of the Revised Code; every 855  
business manager, treasurer, or superintendent of a city, local, 856  
exempted village, joint vocational, or cooperative education 857  
school district or an educational service center; every person who 858  
is elected to or is a candidate for the office of member of a 859  
board of education of a city, local, exempted village, joint 860  
vocational, or cooperative education school district or of a 861  
governing board of an educational service center that has a total 862  
student count of twelve thousand or more as most recently 863  
determined by the department of education pursuant to section 864  
3317.03 of the Revised Code; every person who is appointed to the 865  
board of education of a municipal school district pursuant to 866  
division (B) or (F) of section 3311.71 of the Revised Code; all 867  
members of the board of directors of a sanitary district 868  
established under Chapter 6115. of the Revised Code and organized 869  
wholly for the purpose of providing a water supply for domestic, 870  
municipal, and public use that includes two municipal corporations 871  
in two counties; every public official or employee who is paid a 872  
salary or wage in accordance with schedule C of section 124.15 or 873  
schedule E-2 of section 124.152 of the Revised Code; members of 874  
the board of trustees and the executive director of the tobacco 875  
use prevention and control foundation; members of the board of 876  
trustees and the executive director of the southern Ohio 877  
agricultural and community development foundation; and every other 878  
public official or employee who is designated by the appropriate 879

ethics commission pursuant to division (B) of this section shall 880  
file with the appropriate ethics commission on a form prescribed 881  
by the commission, a statement disclosing all of the following: 882

(1) The name of the person filing the statement and each 883  
member of the person's immediate family and all names under which 884  
the person or members of the person's immediate family do 885  
business; 886

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 887  
and except as otherwise provided in section 102.022 of the Revised 888  
Code, identification of every source of income, other than income 889  
from a legislative agent identified in division (A)(2)(b) of this 890  
section, received during the preceding calendar year, in the 891  
person's own name or by any other person for the person's use or 892  
benefit, by the person filing the statement, and a brief 893  
description of the nature of the services for which the income was 894  
received. If the person filing the statement is a member of the 895  
general assembly, the statement shall identify the amount of every 896  
source of income received in accordance with the following ranges 897  
of amounts: zero or more, but less than one thousand dollars; one 898  
thousand dollars or more, but less than ten thousand dollars; ten 899  
thousand dollars or more, but less than twenty-five thousand 900  
dollars; twenty-five thousand dollars or more, but less than fifty 901  
thousand dollars; fifty thousand dollars or more, but less than 902  
one hundred thousand dollars; and one hundred thousand dollars or 903  
more. Division (A)(2)(a) of this section shall not be construed to 904  
require a person filing the statement who derives income from a 905  
business or profession to disclose the individual items of income 906  
that constitute the gross income of that business or profession, 907  
except for those individual items of income that are attributable 908  
to the person's or, if the income is shared with the person, the 909  
partner's, solicitation of services or goods or performance, 910  
arrangement, or facilitation of services or provision of goods on 911

behalf of the business or profession of clients, including 912  
corporate clients, who are legislative agents as defined in 913  
section 101.70 of the Revised Code. A person who files the 914  
statement under this section shall disclose the identity of and 915  
the amount of income received from a person who the public 916  
official or employee knows or has reason to know is doing or 917  
seeking to do business of any kind with the public official's or 918  
employee's agency. 919

(b) If the person filing the statement is a member of the 920  
general assembly, the statement shall identify every source of 921  
income and the amount of that income that was received from a 922  
legislative agent, as defined in section 101.70 of the Revised 923  
Code, during the preceding calendar year, in the person's own name 924  
or by any other person for the person's use or benefit, by the 925  
person filing the statement, and a brief description of the nature 926  
of the services for which the income was received. Division 927  
(A)(2)(b) of this section requires the disclosure of clients of 928  
attorneys or persons licensed under section 4732.12 of the Revised 929  
Code, or patients of persons certified under section 4731.14 of 930  
the Revised Code, if those clients or patients are legislative 931  
agents. Division (A)(2)(b) of this section requires a person 932  
filing the statement who derives income from a business or 933  
profession to disclose those individual items of income that 934  
constitute the gross income of that business or profession that 935  
are received from legislative agents. 936

(c) Except as otherwise provided in division (A)(2)(c) of 937  
this section, division (A)(2)(a) of this section applies to 938  
attorneys, physicians, and other persons who engage in the 939  
practice of a profession and who, pursuant to a section of the 940  
Revised Code, the common law of this state, a code of ethics 941  
applicable to the profession, or otherwise, generally are required 942  
not to reveal, disclose, or use confidences of clients, patients, 943

or other recipients of professional services except under 944  
specified circumstances or generally are required to maintain 945  
those types of confidences as privileged communications except 946  
under specified circumstances. Division (A)(2)(a) of this section 947  
does not require an attorney, physician, or other professional 948  
subject to a confidentiality requirement as described in division 949  
(A)(2)(c) of this section to disclose the name, other identity, or 950  
address of a client, patient, or other recipient of professional 951  
services if the disclosure would threaten the client, patient, or 952  
other recipient of professional services, would reveal details of 953  
the subject matter for which legal, medical, or professional 954  
advice or other services were sought, or would reveal an otherwise 955  
privileged communication involving the client, patient, or other 956  
recipient of professional services. Division (A)(2)(a) of this 957  
section does not require an attorney, physician, or other 958  
professional subject to a confidentiality requirement as described 959  
in division (A)(2)(c) of this section to disclose in the brief 960  
description of the nature of services required by division 961  
(A)(2)(a) of this section any information pertaining to specific 962  
professional services rendered for a client, patient, or other 963  
recipient of professional services that would reveal details of 964  
the subject matter for which legal, medical, or professional 965  
advice was sought or would reveal an otherwise privileged 966  
communication involving the client, patient, or other recipient of 967  
professional services. 968

(3) The name of every corporation on file with the secretary 969  
of state that is incorporated in this state or holds a certificate 970  
of compliance authorizing it to do business in this state, trust, 971  
business trust, partnership, or association that transacts 972  
business in this state in which the person filing the statement or 973  
any other person for the person's use and benefit had during the 974  
preceding calendar year an investment of over one thousand dollars 975  
at fair market value as of the thirty-first day of December of the 976

preceding calendar year, or the date of disposition, whichever is 977  
earlier, or in which the person holds any office or has a 978  
fiduciary relationship, and a description of the nature of the 979  
investment, office, or relationship. Division (A)(3) of this 980  
section does not require disclosure of the name of any bank, 981  
savings and loan association, credit union, or building and loan 982  
association with which the person filing the statement has a 983  
deposit or a withdrawable share account. 984

(4) All fee simple and leasehold interests to which the 985  
person filing the statement holds legal title to or a beneficial 986  
interest in real property located within the state, excluding the 987  
person's residence and property used primarily for personal 988  
recreation; 989

(5) The names of all persons residing or transacting business 990  
in the state to whom the person filing the statement owes, in the 991  
person's own name or in the name of any other person, more than 992  
one thousand dollars. Division (A)(5) of this section shall not be 993  
construed to require the disclosure of debts owed by the person 994  
resulting from the ordinary conduct of a business or profession or 995  
debts on the person's residence or real property used primarily 996  
for personal recreation, except that the superintendent of 997  
financial institutions shall disclose the names of all 998  
state-chartered savings and loan associations and of all service 999  
corporations subject to regulation under division (E)(2) of 1000  
section 1151.34 of the Revised Code to whom the superintendent in 1001  
the superintendent's own name or in the name of any other person 1002  
owes any money, and that the superintendent and any deputy 1003  
superintendent of banks shall disclose the names of all 1004  
state-chartered banks and all bank subsidiary corporations subject 1005  
to regulation under section 1109.44 of the Revised Code to whom 1006  
the superintendent or deputy superintendent owes any money. 1007

(6) The names of all persons residing or transacting business 1008



in the state, other than a depository excluded under division 1009  
(A)(3) of this section, who owe more than one thousand dollars to 1010  
the person filing the statement, either in the person's own name 1011  
or to any person for the person's use or benefit. Division (A)(6) 1012  
of this section shall not be construed to require the disclosure 1013  
of clients of attorneys or persons licensed under section 4732.12 1014  
or 4732.15 of the Revised Code, or patients of persons certified 1015  
under section 4731.14 of the Revised Code, nor the disclosure of 1016  
debts owed to the person resulting from the ordinary conduct of a 1017  
business or profession. 1018

(7) Except as otherwise provided in section 102.022 of the 1019  
Revised Code, the source of each gift of over seventy-five 1020  
dollars, or of each gift of over twenty-five dollars received by a 1021  
member of the general assembly from a legislative agent, received 1022  
by the person in the person's own name or by any other person for 1023  
the person's use or benefit during the preceding calendar year, 1024  
except gifts received by will or by virtue of section 2105.06 of 1025  
the Revised Code, or received from spouses, parents, grandparents, 1026  
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 1027  
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 1028  
fathers-in-law, mothers-in-law, or any person to whom the person 1029  
filing the statement stands in loco parentis, or received by way 1030  
of distribution from any inter vivos or testamentary trust 1031  
established by a spouse or by an ancestor; 1032

(8) Except as otherwise provided in section 102.022 of the 1033  
Revised Code, identification of the source and amount of every 1034  
payment of expenses incurred for travel to destinations inside or 1035  
outside this state that is received by the person in the person's 1036  
own name or by any other person for the person's use or benefit 1037  
and that is incurred in connection with the person's official 1038  
duties, except for expenses for travel to meetings or conventions 1039  
of a national or state organization to which any state agency, 1040

including, but not limited to, any legislative agency or state 1041  
institution of higher education as defined in section 3345.011 of 1042  
the Revised Code, pays membership dues, or any political 1043  
subdivision or any office or agency of a political subdivision 1044  
pays membership dues; 1045

(9) Except as otherwise provided in section 102.022 of the 1046  
Revised Code, identification of the source of payment of expenses 1047  
for meals and other food and beverages, other than for meals and 1048  
other food and beverages provided at a meeting at which the person 1049  
participated in a panel, seminar, or speaking engagement or at a 1050  
meeting or convention of a national or state organization to which 1051  
any state agency, including, but not limited to, any legislative 1052  
agency or state institution of higher education as defined in 1053  
section 3345.011 of the Revised Code, pays membership dues, or any 1054  
political subdivision or any office or agency of a political 1055  
subdivision pays membership dues, that are incurred in connection 1056  
with the person's official duties and that exceed one hundred 1057  
dollars aggregated per calendar year; 1058

(10) If the financial disclosure statement is filed by a 1059  
public official or employee described in division (B)(2) of 1060  
section 101.73 of the Revised Code or division (B)(2) of section 1061  
121.63 of the Revised Code who receives a statement from a 1062  
legislative agent, executive agency lobbyist, or employer that 1063  
contains the information described in division (F)(2) of section 1064  
101.73 of the Revised Code or division (G)(2) of section 121.63 of 1065  
the Revised Code, all of the nondisputed information contained in 1066  
the statement delivered to that public official or employee by the 1067  
legislative agent, executive agency lobbyist, or employer under 1068  
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 1069  
the Revised Code. As used in division (A)(10) of this section, 1070  
"legislative agent," "executive agency lobbyist," and "employer" 1071  
have the same meanings as in sections 101.70 and 121.60 of the 1072

Revised Code. 1073

A person may file a statement required by this section in 1074  
person or by mail. A person who is a candidate for elective office 1075  
shall file the statement no later than the thirtieth day before 1076  
the primary, special, or general election at which the candidacy 1077  
is to be voted on, whichever election occurs soonest, except that 1078  
a person who is a write-in candidate shall file the statement no 1079  
later than the twentieth day before the earliest election at which 1080  
the person's candidacy is to be voted on. A person who holds 1081  
elective office shall file the statement on or before the 1082  
fifteenth day of April of each year unless the person is a 1083  
candidate for office. A person who is appointed to fill a vacancy 1084  
for an unexpired term in an elective office shall file the 1085  
statement within fifteen days after the person qualifies for 1086  
office. Other persons shall file an annual statement on or before 1087  
the fifteenth day of April or, if appointed or employed after that 1088  
date, within ninety days after appointment or employment. No 1089  
person shall be required to file with the appropriate ethics 1090  
commission more than one statement or pay more than one filing fee 1091  
for any one calendar year. 1092

The appropriate ethics commission, for good cause, may extend 1093  
for a reasonable time the deadline for filing a statement under 1094  
this section. 1095

A statement filed under this section is subject to public 1096  
inspection at locations designated by the appropriate ethics 1097  
commission except as otherwise provided in this section. 1098

(B) The Ohio ethics commission, the joint legislative ethics 1099  
committee, and the board of commissioners on grievances and 1100  
discipline of the supreme court, using the rule-making procedures 1101  
of Chapter 119. of the Revised Code, may require any class of 1102  
public officials or employees under its jurisdiction and not 1103  
specifically excluded by this section whose positions involve a 1104

substantial and material exercise of administrative discretion in 1105  
the formulation of public policy, expenditure of public funds, 1106  
enforcement of laws and rules of the state or a county or city, or 1107  
the execution of other public trusts, to file an annual statement 1108  
on or before the fifteenth day of April under division (A) of this 1109  
section. The appropriate ethics commission shall send the public 1110  
officials or employees written notice of the requirement by the 1111  
fifteenth day of February of each year the filing is required 1112  
unless the public official or employee is appointed after that 1113  
date, in which case the notice shall be sent within thirty days 1114  
after appointment, and the filing shall be made not later than 1115  
ninety days after appointment. 1116

Except for disclosure statements filed by members of the 1117  
board of trustees and the executive director of the tobacco use 1118  
prevention and control foundation and members of the board of 1119  
trustees and the executive director of the southern Ohio 1120  
agricultural and community development foundation, disclosure 1121  
statements filed under this division with the Ohio ethics 1122  
commission by members of boards, commissions, or bureaus of the 1123  
state for which no compensation is received other than reasonable 1124  
and necessary expenses shall be kept confidential. Disclosure 1125  
statements filed with the Ohio ethics commission under division 1126  
(A) of this section by business managers, treasurers, and 1127  
superintendents of city, local, exempted village, joint 1128  
vocational, or cooperative education school districts or 1129  
educational service centers shall be kept confidential, except 1130  
that any person conducting an audit of any such school district or 1131  
educational service center pursuant to section 115.56 or Chapter 1132  
117. of the Revised Code may examine the disclosure statement of 1133  
any business manager, treasurer, or superintendent of that school 1134  
district or educational service center. The Ohio ethics commission 1135  
shall examine each disclosure statement required to be kept 1136  
confidential to determine whether a potential conflict of interest 1137

exists for the person who filed the disclosure statement. A 1138  
potential conflict of interest exists if the private interests of 1139  
the person, as indicated by the person's disclosure statement, 1140  
might interfere with the public interests the person is required 1141  
to serve in the exercise of the person's authority and duties in 1142  
the person's office or position of employment. If the commission 1143  
determines that a potential conflict of interest exists, it shall 1144  
notify the person who filed the disclosure statement and shall 1145  
make the portions of the disclosure statement that indicate a 1146  
potential conflict of interest subject to public inspection in the 1147  
same manner as is provided for other disclosure statements. Any 1148  
portion of the disclosure statement that the commission determines 1149  
does not indicate a potential conflict of interest shall be kept 1150  
confidential by the commission and shall not be made subject to 1151  
public inspection, except as is necessary for the enforcement of 1152  
Chapters 102. and 2921. of the Revised Code and except as 1153  
otherwise provided in this division. 1154

(C) No person shall knowingly fail to file, on or before the 1155  
applicable filing deadline established under this section, a 1156  
statement that is required by this section. 1157

(D) No person shall knowingly file a false statement that is 1158  
required to be filed under this section. 1159

(E)(1) Except as provided in divisions (E)(2) and (3) of this 1160  
section, the statement required by division (A) or (B) of this 1161  
section shall be accompanied by a filing fee of ~~twenty-five~~ forty 1162  
dollars. 1163

(2) The statement required by division (A) of this section 1164  
shall be accompanied by a the following filing fee to be paid by 1165  
the person who is elected or appointed to, or is a candidate for, 1166  
any of the following offices: 1167

For state office, except member of the 1168

state board of education \$50 65 1169

For office of member of United States		1170
congress or member of general assembly	\$25 <u>40</u>	1171
For county office	\$25 <u>40</u>	1172
For city office	\$10 <u>25</u>	1173
For office of member of <u>the</u> state board		1174
of education	\$20 <u>25</u>	1175
For office of member of <u>a</u> city, local,		1176
exempted village, or cooperative		1177
education board of		1178
education or educational service		1179
center governing board	\$ 5 <u>20</u>	1180
For position of business manager,		1181
treasurer, or superintendent of <u>a</u>		1182
city, local, exempted village, joint		1183
vocational, or cooperative education		1184
school district or		1185
educational service center	\$ 5 <u>20</u>	1186
(3) No judge of a court of record or candidate for judge of a		1187
court of record, and no referee or magistrate serving a court of		1188
record, shall be required to pay the fee required under division		1189
(E)(1) or (2) or (F) of this section.		1190
(4) For any public official who is appointed to a nonelective		1191
office of the state and for any employee who holds a nonelective		1192
position in a public agency of the state, the state agency that is		1193
the primary employer of the state official or employee shall pay		1194
the fee required under division (E)(1) or (F) of this section.		1195
(F) If a statement required to be filed under this section is		1196
not filed by the date on which it is required to be filed, the		1197
appropriate ethics commission shall assess the person required to		1198
file the statement a late filing fee <del>equal to one-half of the</del>		1199
<del>applicable filing fee</del> <u>ten dollars</u> for each day the statement is		1200
not filed, except that the total amount of the late filing fee		1201

shall not exceed ~~one~~ two hundred fifty dollars. 1202

(G)(1) The appropriate ethics commission other than the Ohio 1203  
ethics commission shall deposit all fees it receives under 1204  
divisions (E) and (F) of this section into the general revenue 1205  
fund of the state. 1206

(2) The Ohio ethics commission shall deposit all receipts, 1207  
including, but not limited to, fees it receives under divisions 1208  
(E) and (F) of this section and all moneys it receives from 1209  
settlements under division (G) of section 102.06 of the Revised 1210  
Code, into the Ohio ethics commission fund, which is hereby 1211  
created in the state treasury. All moneys credited to the fund 1212  
shall be used solely for expenses related to the operation and 1213  
statutory functions of the commission. 1214

(H) Division (A) of this section does not apply to a person 1215  
elected or appointed to the office of precinct, ward, or district 1216  
committee member under Chapter 3517. of the Revised Code; a 1217  
presidential elector; a delegate to a national convention; village 1218  
or township officials and employees; any physician or psychiatrist 1219  
who is paid a salary or wage in accordance with schedule C of 1220  
section 124.15 or schedule E-2 of section 124.152 of the Revised 1221  
Code and whose primary duties do not require the exercise of 1222  
administrative discretion; or any member of a board, commission, 1223  
or bureau of any county or city who receives less than one 1224  
thousand dollars per year for serving in that position. 1225

Sec. 107.12. (A) As used in this section, "organization" 1226  
means a faith-based or other organization that is exempt from 1227  
federal income taxation under section 501(c)(3) of the Internal 1228  
Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended, and 1229  
provides charitable services to needy residents of this state. 1230

(B) There is hereby established within the office of the 1231  
governor the governor's office for faith-based nonprofit and other 1232

nonprofit organizations. The office shall: 1233

(1) Serve as a clearinghouse of information on federal, 1234  
state, and local funding for charitable services performed by 1235  
organizations; 1236

(2) Encourage organizations to seek public funding for their 1237  
charitable services; 1238

(3) Act as a liaison between state agencies and 1239  
organizations; 1240

(4) Advise the governor, general assembly, and the advisory 1241  
board of the governor's office for faith-based nonprofit or other 1242  
nonprofit organizations on the barriers that exist to 1243  
collaboration between organizations and governmental entities and 1244  
on ways to remove the barriers. 1245

(C) The governor shall appoint an executive assistant to 1246  
manage the office and perform or oversee the performance of the 1247  
duties of the office. 1248

(D)(1) There is hereby created the advisory board of the 1249  
governor's office for faith-based nonprofit and other nonprofit 1250  
organizations. The board shall consist of members appointed as 1251  
follows: 1252

(a) The directors of aging, alcohol and drug addiction 1253  
services, rehabilitation and correction, health, job and family 1254  
services, mental health, and youth services shall each appoint to 1255  
the board one employee of that director's department. 1256

(b) The speaker of the house of representatives shall appoint 1257  
to the board two members of the house of representatives, not more 1258  
than one of whom shall be from the same political party and at 1259  
least one of whom shall be from the legislative black caucus. The 1260  
speaker of the house of representatives shall consult with the 1261  
president of the legislative black caucus in making the 1262



legislative black caucus member appointment. The president of the 1263  
senate shall appoint to the board two members of the senate, not 1264  
more than one of whom shall be from the same political party. 1265

(c) The governor, speaker of the house of representatives, 1266  
and president of the senate shall each appoint to the board three 1267  
representatives of the nonprofit, faith-based and other nonprofit 1268  
community. 1269

(2) The appointments to the board shall be made within thirty 1270  
days after the effective date of this section. Terms of the office 1271  
shall be one year. Any vacancy that occurs on the board shall be 1272  
filled in the same manner as the original appointment. The members 1273  
of the board shall serve without compensation. 1274

(3) At its initial meeting, the board shall elect a 1275  
chairperson. The chairperson shall be a member of the board who is 1276  
a member of the house of representatives. 1277

(E) The board shall do both of the following: 1278

(1) Provide direction, guidance, and oversight to the office; 1279

(2) Publish a report of its activities on or before the first 1280  
day of August of each year, and deliver copies of the report to 1281  
the governor, the speaker and minority leader of the house of 1282  
representatives, and the president and minority leader of the 1283  
senate. 1284

**Sec. 107.31. (A) As used in this section:** 1285

(1) "State institutional facility" means any institution or 1286  
other facility, in operation on or after January 1, 2003, for the 1287  
housing of any person that is under the control of the department 1288  
of rehabilitation and correction, the department of youth 1289  
services, the department of mental retardation and developmental 1290  
disabilities, the department of mental health, or any other agency 1291  
or department of state government. 1292

(2) "Target state agency" means the agency of state 1293  
government that operates the institutional facility or facilities 1294  
that the governor believes should be closed. 1295

(B) Prior to the closing of a state institutional facility, 1296  
the target state agency shall conduct a survey and analysis of the 1297  
needs of each client at that facility for the purpose of ensuring 1298  
that each client's identified needs during the transition and in 1299  
the client's new setting are met. A copy of the analysis, devoid 1300  
of any client identifying information, as well as the target state 1301  
agency's proposal for meeting the needs of the clients, shall be 1302  
submitted to the general assembly in accordance with section 1303  
101.68 of the Revised Code at least two months prior to the 1304  
closing. 1305

Sec. 107.32. (A) As used in this section and section 107.33 1306  
of the Revised Code: 1307

(1) "State institutional facility" means any institution or 1308  
other facility for the housing of any person that is under the 1309  
control of the department of rehabilitation and correction, the 1310  
department of youth services, the department of mental retardation 1311  
and developmental disabilities, the department of mental health, 1312  
or any other agency or department of state government. 1313

(2) "Target state agency" means the agency of state 1314  
government that the governor identifies in a notice provided under 1315  
division (C)(1) of this section and that operates an institutional 1316  
facility or facilities the governor believes should be closed. 1317

(B) Notwithstanding any other provision of law, the governor 1318  
shall not order the closure of any state institutional facility, 1319  
for the purpose of expenditure reductions or budget cuts, other 1320  
than in accordance with this section. 1321

(C) If the governor determines that necessary expenditure 1322

reductions and budget cuts cannot be made without closing one or 1323  
more state institutional facilities, all of the following apply: 1324

(1) The governor shall determine which state agency's 1325  
institutional facility or facilities the governor believes should 1326  
be closed, shall notify the general assembly and that agency of 1327  
that determination, and shall specify in the notice the number of 1328  
facilities of that agency that the governor believes should be 1329  
closed and the anticipated savings to be obtained through that 1330  
closure or those closures. 1331

(2) Upon the governor's provision of the notice described in 1332  
division (C)(1) of this section, a state facilities closure 1333  
commission shall be created as described in division (D) of this 1334  
section regarding the target state agency. Not later than seven 1335  
days after the governor provides that notice, the officials with 1336  
the duties to appoint members of the commission for the target 1337  
state agency, as described in division (D) of this section, shall 1338  
appoint the specified members of the commission, and, as soon as 1339  
possible after the appointments, the commission shall meet for the 1340  
purposes described in that division. Not later than thirty days 1341  
after the governor provides the notice described in division 1342  
(C)(1) of this section, the state facilities closure commission 1343  
shall provide to the general assembly, the governor, and the 1344  
target state agency a report that contains the commission's 1345  
recommendation as to the state institutional facility or 1346  
facilities of the target state agency that the governor may close. 1347  
The anticipated savings to be obtained by the commission's 1348  
recommendation shall be approximately the same as the anticipated 1349  
savings the governor specified in the governor's notice provided 1350  
under division (C)(1) of this section, and, if the recommendation 1351  
identifies more than one facility, it shall list them in order of 1352  
the commission's preference for closure. A state facilities 1353  
closure commission created for a particular target state agency 1354

shall make a report only regarding that target state agency and 1355  
shall include no recommendations regarding any other state agency 1356  
or department in its report. 1357

(3) Upon receipt of the report of the state facilities 1358  
closure commission under division (C)(2) of this section for a 1359  
target state agency, if the governor still believes that necessary 1360  
expenditure reductions and budget cuts cannot be made without 1361  
closing one or more state institutional facilities, the governor 1362  
may close state institutional facilities of the target state 1363  
agency that are identified in the commission's recommendation 1364  
contained in the report. Except as otherwise provided in this 1365  
division, the governor shall not close any state institutional 1366  
facility of the target state agency that is not listed in the 1367  
commission's recommendation, and shall not close multiple 1368  
institutions in any order other than the order of the commission's 1369  
preference as specified in the recommendation. The governor is not 1370  
required to follow the recommendation of the commission in closing 1371  
an institutional facility if the governor determines that a 1372  
significant change in circumstances makes the recommendation 1373  
unworkable. 1374

(D) A state facilities closure commission shall be created at 1375  
the time and in the manner specified in division (C)(2) of this 1376  
section. If more than one state agency or department is a target 1377  
state agency, a separate state facilities closure commission shall 1378  
be created for each such target state agency. Each commission 1379  
consists of eleven members. Three members shall be members of the 1380  
house of representatives appointed by the speaker of the house of 1381  
representatives, none of the members so appointed may have a state 1382  
institutional facility of the target state agency in the member's 1383  
district, two of the members so appointed shall be members of the 1384  
majority political party in the house of representatives, and one 1385  
of the members so appointed shall not be a member of the majority 1386

political party in the house of representatives. Three members 1387  
shall be members of the senate appointed by the president of the 1388  
senate, none of the members so appointed may have a state 1389  
institutional facility of the target state agency in the member's 1390  
district, two of the members so appointed shall be members of the 1391  
majority political party in the senate, and one of the members so 1392  
appointed shall not be a member of the majority political party in 1393  
the senate. One member shall be the director of budget and 1394  
management. One member shall be the director, or other agency 1395  
head, of the target state agency. Two members shall be private 1396  
executives with expertise in facility utilization, with one of 1397  
these members appointed by the speaker of the house of 1398  
representatives and the other appointed by the president of the 1399  
senate, and neither of the members so appointed may have a state 1400  
institutional facility of the target state agency in the county in 1401  
which the member resides. One member shall be a representative of 1402  
the Ohio civil service employees' association or other 1403  
representative association of the employees of the target state 1404  
agency, appointed by the speaker of the house of representatives. 1405  
The officials with the duties to appoint members of the commission 1406  
shall make the appointments, and the commission shall meet, within 1407  
the time periods specified in division (C)(2) of this section. The 1408  
members of the commission shall serve without compensation. At the 1409  
commission's first meeting, the members shall organize, and 1410  
appoint a chairperson and vice-chairperson. 1411

The commission shall determine which state institutional 1412  
facility or facilities under the control of the target state 1413  
agency for which the commission was created should be closed. In 1414  
making this determination, the commission shall, at a minimum, 1415  
consider the following factors: 1416

(1) Whether there is a need to reduce the number of 1417  
facilities; 1418

<u>(2) The availability of alternate facilities;</u>	1419
<u>(3) The cost effectiveness of the facilities;</u>	1420
<u>(4) The geographic factors associated with each facility and its proximity to other similar facilities;</u>	1421 1422
<u>(5) The impact of collective bargaining on facility operations;</u>	1423 1424
<u>(6) The utilization and maximization of resources;</u>	1425
<u>(7) Continuity of the staff and ability to serve the facility population;</u>	1426 1427
<u>(8) Continuing costs following closure of a facility;</u>	1428
<u>(9) The impact of the closure on the local economy;</u>	1429
<u>(10) Alternatives and opportunities for consolidation with other facilities.</u>	1430 1431
<u>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 if that other agency is made a target state agency in a report provided under that division.</u>	1432 1433 1434 1435 1436 1437 1438 1439 1440 1441 1442 1443
<u>Sec. 107.33. Notwithstanding any other provision of law, if the closure of the particular facility is authorized under section 107.32 of the Revised Code, the governor may terminate any contract entered into under section 9.06 of the Revised Code for</u>	1444 1445 1446 1447

the private operation and management of any correctional facility 1448  
under the control of the department of rehabilitation and 1449  
correction, including, but not limited to the initial intensive 1450  
program prison established pursuant to section 5120.033 of the 1451  
Revised Code as it existed prior to the effective date of this 1452  
section, and terminate the operation of, and close that facility. 1453  
If the governor terminates a contract for the private operation 1454  
and management of a facility, and terminates the operation of, and 1455  
closes, the facility as described in this section, inmates in the 1456  
facility shall be transferred to another correctional facility 1457  
under the control of the department. If the initial intensive 1458  
program prison is closed, divisions (G)(2)(a) and (b) of section 1459  
2929.13 of the Revised Code have no effect while the facility is 1460  
closed. 1461

**Sec. 109.57.** (A)(1) The superintendent of the bureau of 1462  
criminal identification and investigation shall procure from 1463  
wherever procurable and file for record photographs, pictures, 1464  
descriptions, fingerprints, measurements, and other information 1465  
that may be pertinent of all persons who have been convicted of 1466  
committing within this state a felony, any crime constituting a 1467  
misdemeanor on the first offense and a felony on subsequent 1468  
offenses, or any misdemeanor described in division (A)(1)(a) of 1469  
section 109.572 of the Revised Code, of all children under 1470  
eighteen years of age who have been adjudicated delinquent 1471  
children for committing within this state an act that would be a 1472  
felony or an offense of violence if committed by an adult or who 1473  
have been convicted of or pleaded guilty to committing within this 1474  
state a felony or an offense of violence, and of all well-known 1475  
and habitual criminals. The person in charge of any county, 1476  
multicounty, municipal, municipal-county, or multicounty-municipal 1477  
jail or workhouse, community-based correctional facility, halfway 1478  
house, alternative residential facility, or state correctional 1479

institution and the person in charge of any state institution 1480  
having custody of a person suspected of having committed a felony, 1481  
any crime constituting a misdemeanor on the first offense and a 1482  
felony on subsequent offenses, or any misdemeanor described in 1483  
division (A)(1)(a) of section 109.572 of the Revised Code or 1484  
having custody of a child under eighteen years of age with respect 1485  
to whom there is probable cause to believe that the child may have 1486  
committed an act that would be a felony or an offense of violence 1487  
if committed by an adult shall furnish such material to the 1488  
superintendent of the bureau. Fingerprints, photographs, or other 1489  
descriptive information of a child who is under eighteen years of 1490  
age, has not been arrested or otherwise taken into custody for 1491  
committing an act that would be a felony or an offense of violence 1492  
if committed by an adult, has not been adjudicated a delinquent 1493  
child for committing an act that would be a felony or an offense 1494  
of violence if committed by an adult, has not been convicted of or 1495  
pleaded guilty to committing a felony or an offense of violence, 1496  
and is not a child with respect to whom there is probable cause to 1497  
believe that the child may have committed an act that would be a 1498  
felony or an offense of violence if committed by an adult shall 1499  
not be procured by the superintendent or furnished by any person 1500  
in charge of any county, multicounty, municipal, municipal-county, 1501  
or multicounty-municipal jail or workhouse, community-based 1502  
correctional facility, halfway house, alternative residential 1503  
facility, or state correctional institution, except as authorized 1504  
in section 2151.313 of the Revised Code. 1505

(2) Every clerk of a court of record in this state, other 1506  
than the supreme court or a court of appeals, shall send to the 1507  
superintendent of the bureau a weekly report containing a summary 1508  
of each case involving a felony, involving any crime constituting 1509  
a misdemeanor on the first offense and a felony on subsequent 1510  
offenses, involving a misdemeanor described in division (A)(1)(a) 1511  
of section 109.572 of the Revised Code, or involving an 1512



adjudication in a case in which a child under eighteen years of 1513  
age was alleged to be a delinquent child for committing an act 1514  
that would be a felony or an offense of violence if committed by 1515  
an adult. The clerk of the court of common pleas shall include in 1516  
the report and summary the clerk sends under this division all 1517  
information described in divisions (A)(2)(a) to (f) of this 1518  
section regarding a case before the court of appeals that is 1519  
served by that clerk. The summary shall be written on the standard 1520  
forms furnished by the superintendent pursuant to division (B) of 1521  
this section and shall include the following information: 1522

(a) The incident tracking number contained on the standard 1523  
forms furnished by the superintendent pursuant to division (B) of 1524  
this section; 1525

(b) The style and number of the case; 1526

(c) The date of arrest; 1527

(d) The date that the person was convicted of or pleaded 1528  
guilty to the offense, adjudicated a delinquent child for 1529  
committing the act that would be a felony or an offense of 1530  
violence if committed by an adult, found not guilty of the 1531  
offense, or found not to be a delinquent child for committing an 1532  
act that would be a felony or an offense of violence if committed 1533  
by an adult, the date of an entry dismissing the charge, an entry 1534  
declaring a mistrial of the offense in which the person is 1535  
discharged, an entry finding that the person or child is not 1536  
competent to stand trial, or an entry of a nolle prosequi, or the 1537  
date of any other determination that constitutes final resolution 1538  
of the case; 1539

(e) A statement of the original charge with the section of 1540  
the Revised Code that was alleged to be violated; 1541

(f) If the person or child was convicted, pleaded guilty, or 1542  
was adjudicated a delinquent child, the sentence or terms of 1543

probation imposed or any other disposition of the offender or the delinquent child. 1544  
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If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records. 1546  
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(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement officials of the state and its political 1551  
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subdivisions. 1576

(4) The superintendent shall carry out Chapter 2950. of the 1577  
Revised Code with respect to the registration of persons who are 1578  
convicted of or plead guilty to a sexually oriented offense and 1579  
with respect to all other duties imposed on the bureau under that 1580  
chapter. 1581

(B) The superintendent shall prepare and furnish to every 1582  
county, multicounty, municipal, municipal-county, or 1583  
multicounty-municipal jail or workhouse, community-based 1584  
correctional facility, halfway house, alternative residential 1585  
facility, or state correctional institution and to every clerk of 1586  
a court in this state specified in division (A)(2) of this section 1587  
standard forms for reporting the information required under 1588  
division (A) of this section. The standard forms that the 1589  
superintendent prepares pursuant to this division may be in a 1590  
tangible format, in an electronic format, or in both tangible 1591  
formats and electronic formats. 1592

(C) The superintendent may operate a center for electronic, 1593  
automated, or other data processing for the storage and retrieval 1594  
of information, data, and statistics pertaining to criminals and 1595  
to children under eighteen years of age who are adjudicated 1596  
delinquent children for committing an act that would be a felony 1597  
or an offense of violence if committed by an adult, criminal 1598  
activity, crime prevention, law enforcement, and criminal justice, 1599  
and may establish and operate a statewide communications network 1600  
to gather and disseminate information, data, and statistics for 1601  
the use of law enforcement agencies. The superintendent may 1602  
gather, store, retrieve, and disseminate information, data, and 1603  
statistics that pertain to children who are under eighteen years 1604  
of age and that are gathered pursuant to sections 109.57 to 109.61 1605  
of the Revised Code together with information, data, and 1606  
statistics that pertain to adults and that are gathered pursuant 1607

to those sections. 1608

(D) The information and materials furnished to the 1609  
superintendent pursuant to division (A) of this section and 1610  
information and materials furnished to any board or person under 1611  
division (F) or (G) of this section are not public records under 1612  
section 149.43 of the Revised Code. 1613

(E) The attorney general shall adopt rules, in accordance 1614  
with Chapter 119. of the Revised Code, setting forth the procedure 1615  
by which a person may receive or release information gathered by 1616  
the superintendent pursuant to division (A) of this section. A 1617  
reasonable fee may be charged for this service. If a temporary 1618  
employment service submits a request for a determination of 1619  
whether a person the service plans to refer to an employment 1620  
position has been convicted of or pleaded guilty to an offense 1621  
listed in division (A)(1), (3), (4), ~~or~~ (5), or (6) of section 1622  
109.572 of the Revised Code, the request shall be treated as a 1623  
single request and only one fee shall be charged. 1624

(F)(1) As used in division (F)(2) of this section, "head 1625  
start agency" means an entity in this state that has been approved 1626  
to be an agency for purposes of subchapter II of the "Community 1627  
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 1628  
as amended. 1629

(2)(a) In addition to or in conjunction with any request that 1630  
is required to be made under section 109.572, 2151.86, 3301.32, 1631  
3301.541, 3319.39, 3701.881, 5104.012, 5104.013, 5123.081, 1632  
5126.28, 5126.281, or 5153.111 of the Revised Code, the board of 1633  
education of any school district; the director of mental 1634  
retardation and developmental disabilities; any county board of 1635  
mental retardation and developmental disabilities; any entity 1636  
under contract with a county board of mental retardation and 1637  
developmental disabilities; the chief administrator of any 1638  
chartered nonpublic school; the chief administrator of any home 1639

health agency; the chief administrator of or person operating any 1640  
child day-care center, type A family day-care home, or type B 1641  
family day-care home licensed or certified under Chapter 5104. of 1642  
the Revised Code; the administrator of any type C family day-care 1643  
home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 1644  
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 1645  
general assembly; the chief administrator of any head start 1646  
agency; or the executive director of a public children services 1647  
agency may request that the superintendent of the bureau 1648  
investigate and determine, with respect to any individual who has 1649  
applied for employment in any position after October 2, 1989, or 1650  
any individual wishing to apply for employment with a board of 1651  
education may request, with regard to the individual, whether the 1652  
bureau has any information gathered under division (A) of this 1653  
section that pertains to that individual. On receipt of the 1654  
request, the superintendent shall determine whether that 1655  
information exists and, upon request of the person, board, or 1656  
entity requesting information, also shall request from the federal 1657  
bureau of investigation any criminal records it has pertaining to 1658  
that individual. Within thirty days of the date that the 1659  
superintendent receives a request, the superintendent shall send 1660  
to the board, entity, or person a report of any information that 1661  
the superintendent determines exists, including information 1662  
contained in records that have been sealed under section 2953.32 1663  
of the Revised Code, and, within thirty days of its receipt, shall 1664  
send the board, entity, or person a report of any information 1665  
received from the federal bureau of investigation, other than 1666  
information the dissemination of which is prohibited by federal 1667  
law. 1668

(b) When a board of education is required to receive 1669  
information under this section as a prerequisite to employment of 1670  
an individual pursuant to section 3319.39 of the Revised Code, it 1671  
may accept a certified copy of records that were issued by the 1672

bureau of criminal identification and investigation and that are 1673  
presented by an individual applying for employment with the 1674  
district in lieu of requesting that information itself. In such a 1675  
case, the board shall accept the certified copy issued by the 1676  
bureau in order to make a photocopy of it for that individual's 1677  
employment application documents and shall return the certified 1678  
copy to the individual. In a case of that nature, a district only 1679  
shall accept a certified copy of records of that nature within one 1680  
year after the date of their issuance by the bureau. 1681

(3) The state board of education may request, with respect to 1682  
any individual who has applied for employment after October 2, 1683  
1989, in any position with the state board or the department of 1684  
education, any information that a school district board of 1685  
education is authorized to request under division (F)(2) of this 1686  
section, and the superintendent of the bureau shall proceed as if 1687  
the request has been received from a school district board of 1688  
education under division (F)(2) of this section. 1689

(4) When the superintendent of the bureau receives a request 1690  
for information that is authorized under section 3319.291 of the 1691  
Revised Code, the superintendent shall proceed as if the request 1692  
has been received from a school district board of education under 1693  
division (F)(2) of this section. 1694

(5) When a recipient of an OhioReads classroom or community 1695  
reading grant paid under section 3301.86 or 3301.87 of the Revised 1696  
Code or an entity approved by the OhioReads council requests, with 1697  
respect to any individual who applies to participate in providing 1698  
any program or service through an entity approved by the OhioReads 1699  
council or funded in whole or in part by the grant, the 1700  
information that a school district board of education is 1701  
authorized to request under division (F)(2)(a) of this section, 1702  
the superintendent of the bureau shall proceed as if the request 1703  
has been received from a school district board of education under 1704

division (F)(2)(a) of this section. 1705

(G) In addition to or in conjunction with any request that is 1706  
required to be made under section 173.41, 3701.881, 3712.09, 1707  
3721.121, or 3722.151 of the Revised Code with respect to an 1708  
individual who has applied for employment in a position that 1709  
involves providing direct care to an older adult, the chief 1710  
administrator of a PASSPORT agency that provides services through 1711  
the PASSPORT program created under section 173.40 of the Revised 1712  
Code, home health agency, hospice care program, home licensed 1713  
under Chapter 3721. of the Revised Code, adult day-care program 1714  
operated pursuant to rules adopted under section 3721.04 of the 1715  
Revised Code, or adult care facility may request that the 1716  
superintendent of the bureau investigate and determine, with 1717  
respect to any individual who has applied after January 27, 1997, 1718  
for employment in a position that does not involve providing 1719  
direct care to an older adult, whether the bureau has any 1720  
information gathered under division (A) of this section that 1721  
pertains to that individual. On receipt of the request, the 1722  
superintendent shall determine whether that information exists 1723  
and, on request of the administrator requesting information, shall 1724  
also request from the federal bureau of investigation any criminal 1725  
records it has pertaining to that individual. Within thirty days 1726  
of the date a request is received, the superintendent shall send 1727  
to the administrator a report of any information determined to 1728  
exist, including information contained in records that have been 1729  
sealed under section 2953.32 of the Revised Code, and, within 1730  
thirty days of its receipt, shall send the administrator a report 1731  
of any information received from the federal bureau of 1732  
investigation, other than information the dissemination of which 1733  
is prohibited by federal law. 1734

(H) Information obtained by a board, administrator, or other 1735  
person under this section is confidential and shall not be 1736

released or disseminated. 1737

(I) The superintendent may charge a reasonable fee for 1738  
providing information or criminal records under division (F)(2) or 1739  
(G) of this section. 1740

**Sec. 109.572.** (A)(1) Upon receipt of a request pursuant to 1741  
section 2151.86, 3301.32, 3301.541, 3319.39, 5104.012, 5104.013, 1742  
or 5153.111 of the Revised Code, a completed form prescribed 1743  
pursuant to division (C)(1) of this section, and a set of 1744  
fingerprint impressions obtained in the manner described in 1745  
division (C)(2) of this section, the superintendent of the bureau 1746  
of criminal identification and investigation shall conduct a 1747  
criminal records check in the manner described in division (B) of 1748  
this section to determine whether any information exists that 1749  
indicates that the person who is the subject of the request 1750  
previously has been convicted of or pleaded guilty to any of the 1751  
following: 1752

(a) A violation of section 2903.01, 2903.02, 2903.03, 1753  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1754  
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1755  
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1756  
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 1757  
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 1758  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 1759  
2925.06, or 3716.11 of the Revised Code, felonious sexual 1760  
penetration in violation of former section 2907.12 of the Revised 1761  
Code, a violation of section 2905.04 of the Revised Code as it 1762  
existed prior to July 1, 1996, a violation of section 2919.23 of 1763  
the Revised Code that would have been a violation of section 1764  
2905.04 of the Revised Code as it existed prior to July 1, 1996, 1765  
had the violation been committed prior to that date, or a 1766  
violation of section 2925.11 of the Revised Code that is not a 1767



minor drug possession offense; 1768

(b) A violation of an existing or former law of this state, 1769  
any other state, or the United States that is substantially 1770  
equivalent to any of the offenses listed in division (A)(1)(a) of 1771  
this section. 1772

(2) On receipt of a request pursuant to section 5123.081 of 1773  
the Revised Code with respect to an applicant for employment in 1774  
any position with the department of mental retardation and 1775  
developmental disabilities, pursuant to section 5126.28 of the 1776  
Revised Code with respect to an applicant for employment in any 1777  
position with a county board of mental retardation and 1778  
developmental disabilities, or pursuant to section 5126.281 of the 1779  
Revised Code with respect to an applicant for employment in a 1780  
direct services position with an entity contracting with a county 1781  
board for employment, a completed form prescribed pursuant to 1782  
division (C)(1) of this section, and a set of fingerprint 1783  
impressions obtained in the manner described in division (C)(2) of 1784  
this section, the superintendent of the bureau of criminal 1785  
identification and investigation shall conduct a criminal records 1786  
check. The superintendent shall conduct the criminal records check 1787  
in the manner described in division (B) of this section to 1788  
determine whether any information exists that indicates that the 1789  
person who is the subject of the request has been convicted of or 1790  
pleaded guilty to any of the following: 1791

(a) A violation of section 2903.01, 2903.02, 2903.03, 1792  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1793  
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 1794  
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 1795  
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 1796  
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1797  
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, or 1798  
3716.11 of the Revised Code; 1799

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

(3) On receipt of a request pursuant to section 173.41, 3712.09, 3721.121, or 3722.151 of the Revised Code, 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 with respect to any person who has applied for employment in a position that involves providing direct care to an older adult. 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, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 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, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;

(b) 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)(3)(a) of this section.

(4) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with

a home health agency as a person responsible for the care, 1831  
custody, or control of a child, a completed form prescribed 1832  
pursuant to division (C)(1) of this section, and a set of 1833  
fingerprint impressions obtained in the manner described in 1834  
division (C)(2) of this section, the superintendent of the bureau 1835  
of criminal identification and investigation shall conduct a 1836  
criminal records check. The superintendent shall conduct the 1837  
criminal records check in the manner described in division (B) of 1838  
this section to determine whether any information exists that 1839  
indicates that the person who is the subject of the request 1840  
previously has been convicted of or pleaded guilty to any of the 1841  
following: 1842

(a) A violation of section 2903.01, 2903.02, 2903.03, 1843  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1844  
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 1845  
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 1846  
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 1847  
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1848  
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 1849  
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 1850  
violation of section 2925.11 of the Revised Code that is not a 1851  
minor drug possession offense; 1852

(b) An existing or former law of this state, any other state, 1853  
or the United States that is substantially equivalent to any of 1854  
the offenses listed in division (A)(4)(a) of this section. 1855

(5) On receipt of a request pursuant to section 5111.95 or 1856  
5111.96 of the Revised Code with respect to an applicant for 1857  
employment with a waiver agency participating in a department of 1858  
job and family services administered home and community-based 1859  
waiver program or an independent provider participating in a 1860  
department administered home and community-based waiver program in 1861  
a position that involves providing home and community-based waiver 1862

services to consumers with disabilities, a completed form 1863  
prescribed pursuant to division (C)(1) of this section, and a set 1864  
of fingerprint impressions obtained in the manner described in 1865  
division (C)(2) of this section, the superintendent of the bureau 1866  
of criminal identification and investigation shall conduct a 1867  
criminal records check. The superintendent shall conduct the 1868  
criminal records check in the manner described in division (B) of 1869  
this section to determine whether any information exists that 1870  
indicates that the person who is the subject of the request 1871  
previously has been convicted of or pleaded guilty to any of the 1872  
following: 1873

(a) A violation of section 2903.01, 2903.02, 2903.03, 1874  
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 1875  
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 1876  
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 1877  
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 1878  
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 1879  
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 1880  
2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 1881  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 1882  
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 1883  
Revised Code, felonious sexual penetration in violation of former 1884  
section 2907.12 of the Revised Code, a violation of section 1885  
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 1886  
violation of section 2919.23 of the Revised Code that would have 1887  
been a violation of section 2905.04 of the Revised Code as it 1888  
existed prior to July 1, 1996, had the violation been committed 1889  
prior to that date; 1890

(b) An existing or former law of this state, any other state, 1891  
or the United States that is substantially equivalent to any of 1892  
the offenses listed in division (A)(5)(a) of this section. 1893

(6) On receipt of a request pursuant to section 3701.881 of 1894

the Revised Code with respect to an applicant for employment with 1895  
a home health agency in a position that involves providing direct 1896  
care to an older adult, a completed form prescribed pursuant to 1897  
division (C)(1) of this section, and a set of fingerprint 1898  
impressions obtained in the manner described in division (C)(2) of 1899  
this section, the superintendent of the bureau of criminal 1900  
identification and investigation shall conduct a criminal records 1901  
check. The superintendent shall conduct the criminal records check 1902  
in the manner described in division (B) of this section to 1903  
determine whether any information exists that indicates that the 1904  
person who is the subject of the request previously has been 1905  
convicted of or pleaded guilty to any of the following: 1906

(a) A violation of section 2903.01, 2903.02, 2903.03, 1907  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1908  
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1909  
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1910  
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1911  
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1912  
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1913  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1914  
2925.22, 2925.23, or 3716.11 of the Revised Code; 1915

(b) An existing or former law of this state, any other state, 1916  
or the United States that is substantially equivalent to any of 1917  
the offenses listed in division (A)~~(5)~~(6)(a) of this section. 1918

~~(6)~~(7) When conducting a criminal records check upon a 1919  
request pursuant to section 3319.39 of the Revised Code for an 1920  
applicant who is a teacher, in addition to the determination made 1921  
under division (A)(1) of this section, the superintendent shall 1922  
determine whether any information exists that indicates that the 1923  
person who is the subject of the request previously has been 1924  
convicted of or pleaded guilty to any offense specified in section 1925  
3319.31 of the Revised Code. 1926

~~(7)~~(8) When conducting a criminal records check on a request 1927  
pursuant to section 2151.86 of the Revised Code for a person who 1928  
is a prospective foster caregiver or who is eighteen years old or 1929  
older and resides in the home of a prospective foster caregiver, 1930  
the superintendent, in addition to the determination made under 1931  
division (A)(1) of this section, shall determine whether any 1932  
information exists that indicates that the person has been 1933  
convicted of or pleaded guilty to a violation of: 1934

(a) Section 2909.02 or 2909.03 of the Revised Code; 1935

(b) An existing or former law of this state, any other state, 1936  
or the United States that is substantially equivalent to section 1937  
2909.02 or 2909.03 of the Revised Code. 1938

~~(8)~~(9) Not later than thirty days after the date the 1939  
superintendent receives the request, completed form, and 1940  
fingerprint impressions, the superintendent shall send the person, 1941  
board, or entity that made the request any information, other than 1942  
information the dissemination of which is prohibited by federal 1943  
law, the superintendent determines exists with respect to the 1944  
person who is the subject of the request that indicates that the 1945  
person previously has been convicted of or pleaded guilty to any 1946  
offense listed or described in division (A)(1), (2), (3), (4), 1947  
(5), (6), ~~or (7)~~, or (8) of this section, as appropriate. The 1948  
superintendent shall send the person, board, or entity that made 1949  
the request a copy of the list of offenses specified in division 1950  
(A)(1), (2), (3), (4), (5), (6), ~~or (7)~~, or (8) of this section, 1951  
as appropriate. If the request was made under section 3701.881 of 1952  
the Revised Code with regard to an applicant who may be both 1953  
responsible for the care, custody, or control of a child and 1954  
involved in providing direct care to an older adult, the 1955  
superintendent shall provide a list of the offenses specified in 1956  
divisions (A)(4) and ~~(5)~~(6) of this section. 1957

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

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

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

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

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is required by section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121,

3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 1989  
5126.281, or 5153.111 of the Revised Code. Any person for whom a 1990  
records check is required by any of those sections shall obtain 1991  
the fingerprint impressions at a county sheriff's office, 1992  
municipal police department, or any other entity with the ability 1993  
to make fingerprint impressions on the standard impression sheets 1994  
prescribed by the superintendent. The office, department, or 1995  
entity may charge the person a reasonable fee for making the 1996  
impressions. The standard impression sheets the superintendent 1997  
prescribes pursuant to this division may be in a tangible format, 1998  
in an electronic format, or in both tangible and electronic 1999  
formats. 2000

(3) Subject to division (D) of this section, the 2001  
superintendent shall prescribe and charge a reasonable fee for 2002  
providing a criminal records check requested under section 173.41, 2003  
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 2004  
3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 2005  
5126.281, or 5153.111 of the Revised Code. The person making a 2006  
criminal records request under section 173.41, 2151.86, 3301.32, 2007  
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 2008  
5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, 2009  
or 5153.111 of the Revised Code shall pay the fee prescribed 2010  
pursuant to this division. A person making a request under section 2011  
3701.881 of the Revised Code for a criminal records check for an 2012  
applicant who may be both responsible for the care, custody, or 2013  
control of a child and involved in providing direct care to an 2014  
older adult shall pay one fee for the request. 2015

(4) The superintendent of the bureau of criminal 2016  
identification and investigation may prescribe methods of 2017  
forwarding fingerprint impressions and information necessary to 2018  
conduct a criminal records check, which methods shall include, but 2019  
not be limited to, an electronic method. 2020



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

(E) As used in this section:

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

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

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

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

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

**Sec. 109.71.** There is hereby created in the office of the

attorney general the Ohio peace officer training commission. The 2051  
commission shall consist of nine members appointed by the governor 2052  
with the advice and consent of the senate and selected as follows: 2053  
one member representing the public; two members who are incumbent 2054  
sheriffs; two members who are incumbent chiefs of police; one 2055  
member from the bureau of criminal identification and 2056  
investigation; one member from the state highway patrol; one 2057  
member who is the special agent in charge of a field office of the 2058  
federal bureau of investigation in this state; and one member from 2059  
the department of education, trade and industrial education 2060  
services, law enforcement training. 2061

As used in sections 109.71 to 109.77 of the Revised Code: 2062

(A) "Peace officer" means: 2063

(1) A deputy sheriff, marshal, deputy marshal, member of the 2064  
organized police department of a township or municipal 2065  
corporation, member of a township police district or joint 2066  
township police district police force, member of a police force 2067  
employed by a metropolitan housing authority under division (D) of 2068  
section 3735.31 of the Revised Code, or township constable, who is 2069  
commissioned and employed as a peace officer by a political 2070  
subdivision of this state or by a metropolitan housing authority, 2071  
and whose primary duties are to preserve the peace, to protect 2072  
life and property, and to enforce the laws of this state, 2073  
ordinances of a municipal corporation, resolutions of a township, 2074  
or regulations of a board of county commissioners or board of 2075  
township trustees, or any of those laws, ordinances, resolutions, 2076  
or regulations; 2077

(2) A police officer who is employed by a railroad company 2078  
and appointed and commissioned by the governor pursuant to 2079  
sections 4973.17 to 4973.22 of the Revised Code; 2080

(3) Employees of the department of taxation engaged in the 2081

enforcement of <del>Chapter 5743. of the Revised Code</del> <u>laws the tax</u>	2082
<u>commissioner administers</u> and designated by the tax commissioner	2083
for peace officer training for purposes of the delegation of	2084
investigation powers under section <del>5743.45</del> <u>5703.58</u> of the Revised	2085
Code;	2086
(4) An undercover drug agent;	2087
(5) Enforcement agents of the department of public safety	2088
whom the director of public safety designates under section	2089
5502.14 of the Revised Code;	2090
(6) An employee of the department of natural resources who is	2091
a natural resources law enforcement staff officer designated	2092
pursuant to section 1501.013, a park officer designated pursuant	2093
to section 1541.10, a forest officer designated pursuant to	2094
section 1503.29, a preserve officer designated pursuant to section	2095
1517.10, a wildlife officer designated pursuant to section	2096
1531.13, or a state watercraft officer designated pursuant to	2097
section 1547.521 of the Revised Code;	2098
(7) An employee of a park district who is designated pursuant	2099
to section 511.232 or 1545.13 of the Revised Code;	2100
(8) An employee of a conservancy district who is designated	2101
pursuant to section 6101.75 of the Revised Code;	2102
(9) A police officer who is employed by a hospital that	2103
employs and maintains its own proprietary police department or	2104
security department, and who is appointed and commissioned by the	2105
governor pursuant to sections 4973.17 to 4973.22 of the Revised	2106
Code;	2107
(10) Veterans' homes police officers designated under section	2108
5907.02 of the Revised Code;	2109
(11) A police officer who is employed by a qualified	2110
nonprofit corporation police department pursuant to section	2111

1702.80 of the Revised Code;	2112
(12) A state university law enforcement officer appointed	2113
under section 3345.04 of the Revised Code or a person serving as a	2114
state university law enforcement officer on a permanent basis on	2115
June 19, 1978, who has been awarded a certificate by the executive	2116
director of the Ohio peace officer training commission attesting	2117
to the person's satisfactory completion of an approved state,	2118
county, municipal, or department of natural resources peace	2119
officer basic training program;	2120
(13) A special police officer employed by the department of	2121
mental health pursuant to section 5119.14 of the Revised Code or	2122
the department of mental retardation and developmental	2123
disabilities pursuant to section 5123.13 of the Revised Code;	2124
(14) A member of a campus police department appointed under	2125
section 1713.50 of the Revised Code;	2126
(15) A member of a police force employed by a regional	2127
transit authority under division (Y) of section 306.35 of the	2128
Revised Code;	2129
(16) Investigators appointed by the auditor of state pursuant	2130
to section 117.091 of the Revised Code and engaged in the	2131
enforcement of Chapter 117. of the Revised Code;	2132
(17) A special police officer designated by the	2133
superintendent of the state highway patrol pursuant to section	2134
5503.09 of the Revised Code or a person who was serving as a	2135
special police officer pursuant to that section on a permanent	2136
basis on October 21, 1997, and who has been awarded a certificate	2137
by the executive director of the Ohio peace officer training	2138
commission attesting to the person's satisfactory completion of an	2139
approved state, county, municipal, or department of natural	2140
resources peace officer basic training program;	2141
(18) A special police officer employed by a port authority	2142

under section 4582.04 or 4582.28 of the Revised Code or a person 2143  
serving as a special police officer employed by a port authority 2144  
on a permanent basis on May 17, 2000, who has been awarded a 2145  
certificate by the executive director of the Ohio peace officer 2146  
training commission attesting to the person's satisfactory 2147  
completion of an approved state, county, municipal, or department 2148  
of natural resources peace officer basic training program; 2149

(19) A special police officer employed by a municipal 2150  
corporation who has been awarded a certificate by the executive 2151  
director of the Ohio peace officer training commission for 2152  
satisfactory completion of an approved peace officer basic 2153  
training program and who is employed on a permanent basis on or 2154  
after ~~the effective date of this amendment~~ March 19, 2003, at a 2155  
municipal airport, or other municipal air navigation facility, 2156  
that has scheduled operations, as defined in section 119.3 of 2157  
Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as 2158  
amended, and that is required to be under a security program and 2159  
is governed by aviation security rules of the transportation 2160  
security administration of the United States department of 2161  
transportation as provided in Parts 1542. and 1544. of Title 49 of 2162  
the Code of Federal Regulations, as amended. 2163

(B) "Undercover drug agent" has the same meaning as in 2164  
division (B)(2) of section 109.79 of the Revised Code. 2165

(C) "Crisis intervention training" means training in the use 2166  
of interpersonal and communication skills to most effectively and 2167  
sensitively interview victims of rape. 2168

(D) "Missing children" has the same meaning as in section 2169  
2901.30 of the Revised Code. 2170

**Sec. 117.101.** The auditor of state ~~may establish~~ shall 2171  
provide, operate, and maintain a uniform and compatible 2172  
computerized financial management and accounting system known as 2173

the uniform accounting network. ~~Any such~~ The network shall be 2174  
designed to provide public offices, other than state agencies and 2175  
the Ohio education computer network and public school districts, 2176  
with efficient and economical access to data processing and 2177  
management information facilities and expertise. In accordance 2178  
with this objective, activities of the network shall include, but 2179  
not be limited to, provision, maintenance, and operation of the 2180  
following facilities and services: 2181

(A) A cooperative program of technical assistance for public 2182  
offices, other than state agencies and the Ohio education computer 2183  
network and public school districts, including, but not limited 2184  
to, an adequate computer software system and a data base; 2185

(B) An information processing service center providing 2186  
approved computerized financial accounting and reporting services 2187  
to participating public offices. 2188

The auditor of state and any public office, other than a 2189  
state agency and the Ohio education computer network and public 2190  
school districts, may enter into any necessary agreements, without 2191  
advertisement or bidding, for the provision of necessary goods, 2192  
materials, supplies, and services to such public offices by the 2193  
auditor of state through the network. 2194

The auditor of state may, by rule, provide for a system of 2195  
user fees to be charged participating public offices for goods, 2196  
materials, supplies, and services received from the network. All 2197  
such fees shall be paid into the state treasury to the credit of 2198  
the uniform accounting network fund, which is hereby created. The 2199  
fund shall be used by the auditor of state to pay the costs of 2200  
establishing and maintaining the network. The fund shall be 2201  
assessed a proportionate share of the auditor of state's 2202  
administrative costs in accordance with procedures prescribed by 2203  
the auditor of state and approved by the director of budget and 2204  
management. 2205

Sec. 117.16. (A) The auditor of state shall do all of the 2206  
following: 2207

(1) Develop a force account project assessment form that each 2208  
public office that undertakes force account projects shall use to 2209  
estimate or report the cost of a force account project. The form 2210  
shall include costs for employee salaries and benefits, any other 2211  
labor costs, materials, freight, fuel, hauling, overhead expense, 2212  
workers' compensation premiums, and all other items of cost and 2213  
expense, including a reasonable allowance for the use of all tools 2214  
and equipment used on or in connection with such work and for the 2215  
depreciation on the tools and equipment. 2216

(2) Make the form available to public offices by any 2217  
cost-effective, convenient method accessible to the auditor of 2218  
state and the public offices; 2219

(3) When conducting an audit under this chapter of ~~such~~ a 2220  
public office ~~under this chapter~~ that undertakes force account 2221  
projects, examine ~~a sample of~~ the forms and records of ~~any a~~ 2222  
sampling of the force account ~~project that~~ projects the public 2223  
office completed since an audit was last conducted, to determine 2224  
compliance with ~~the~~ its force account limits ~~and other force~~ 2225  
~~account provisions established by law. If the auditor of state~~ 2226  
~~finds a violation of the force account limits, the auditor of~~ 2227  
~~state shall conduct an audit of each force account project~~ 2228  
~~completed since an audit was last conducted.~~ 2229

(B) If the auditor of state receives a complaint from any 2230  
person that a public office has violated the force account limits 2231  
established for that office, the auditor of state may conduct an 2232  
audit in addition to the audit provided in section 117.11 of the 2233  
Revised Code if the auditor of state has reasonable cause to 2234  
believe that an additional audit is in the public interest. 2235

(C)(1) If the auditor of state finds that a county, township, or municipal corporation violated the force account limits established for that political subdivision, the auditor of state, in addition to any other action authorized by this chapter, shall notify the political subdivision that, for a period of one year from the date of the notification, the force account limits for the subdivision are reduced as follows:

(a) For a county, the limits shall be ten thousand dollars per mile for construction or reconstruction of a road and forty thousand dollars for construction, reconstruction, maintenance, or repair of a bridge or culvert;

(b) For a township, the limit shall be fifteen thousand dollars for maintenance and repair of a road or five thousand per mile for construction or reconstruction of a township road;

(c) For a municipal corporation, the limit shall be ten thousand dollars for the construction, reconstruction, widening, resurfacing, or repair of a street or other public way.

(2) If the auditor of state finds that a county, township, or municipal corporation violated the force account limits established for that political subdivision in a second ~~or~~ subsequent ~~time~~ audit, the auditor of state, in addition to any other action authorized by this chapter, shall notify the political subdivision that, for a period of two years from the date of the notification, the force account limits for the subdivision are reduced in accordance with division (C)(1)(a), (b), or (c) of this section.

(3) If the auditor of state finds that a county, township, or municipal corporation violated the force account limits established for that political subdivision in a third or more subsequent ~~time~~ audit, the ~~subdivision shall pay the~~ auditor of state shall certify to the tax commissioner an amount the auditor



of state determines to be twenty per cent of the total cost of the 2267  
force account project that is the basis of the violation. The Upon 2268  
receipt of this certification, the tax commissioner shall withhold 2269  
the certified amount from any funds under the tax commissioner's 2270  
control that are due or payable to that political subdivision. The 2271  
tax commissioner shall promptly deposit this withheld amount to 2272  
the credit of the highway operating fund created by section 2273  
5735.291 of the Revised Code to be redistributed to local 2274  
governments that have not violated their force account limits. 2275

If the tax commissioner determines that no funds are due and 2276  
payable to the violating political subdivision or that 2277  
insufficient amounts of such funds are available to cover the 2278  
entire certified amount, the tax commissioner shall withhold and 2279  
deposit to the credit of the highway operating fund any amount 2280  
available and certify the remaining amount to be withheld to the 2281  
county auditor of the county in which the political subdivision is 2282  
located. The county auditor shall withhold from that political 2283  
subdivision any amount, up to that certified by the tax 2284  
commissioner, that is available from any funds under the county 2285  
auditor's control, that is due or payable to that political 2286  
subdivision, and that can be lawfully withheld. The county auditor 2287  
shall promptly pay that withheld amount to the tax commissioner 2288  
for deposit into the highway operating fund and redistribution to 2289  
local governments that have not violated their force account 2290  
limits. 2291

The tax commissioner shall make a distribution from the 2292  
highway operating fund to local governments that have not violated 2293  
their force account limits at least once every six months. 2294

The payments required under division (C)(3) of this section 2295  
are in addition to the force account limit reductions under 2296  
described in division (C)(2) of this section and also are in 2297  
addition to any other action authorized by this chapter. The 2298

~~auditor of state shall certify any money due under division (C)(3) 2299  
of this section for collection in accordance with division (D) of 2300  
section 117.13 of the Revised Code. 2301~~

(D) If the auditor of state finds that a county, township, or 2302  
municipal corporation violated its force account ~~limit~~ limits when 2303  
participating in a joint force account project, the auditor of 2304  
state shall impose the reduction in force account limits under 2305  
division (C) of this section on all entities participating in the 2306  
joint project. 2307

(E) As used in this section, "force account limits" means any 2308  
of the following, as applicable: 2309

(1) For a county, the amounts established in section 5543.19 2310  
of the Revised Code; 2311

(2) For a township, the amounts established in section 2312  
5575.01 of the Revised Code; 2313

(3) For a municipal corporation, the amount established in 2314  
section 723.52 of the Revised Code; 2315

(4) For the department of transportation, the amount 2316  
established in section 5517.02 of the Revised Code. 2317

**Sec. 117.44.** To enhance local officials' background and 2318  
working knowledge of government accounting, budgeting and 2319  
financing, financial report preparation, and the rules adopted by 2320  
the auditor of state, the auditor of state shall hold training 2321  
programs for persons elected for the first time as township 2322  
clerks, city auditors, and village clerks, between the first day 2323  
of December and the ~~fifteenth~~ first day of ~~February~~ April 2324  
immediately following a general election for any of these offices. 2325  
Similar training may also be provided to any township clerk, city 2326  
auditor, or village clerk who is appointed to fill a vacancy or 2327  
who is elected in a special election. 2328

The auditor of state also shall develop and provide an annual training program of continuing education for village clerks.

The auditor of state shall determine the manner, content, and length of the training programs after consultation with appropriate statewide organizations of local governmental officials. The auditor of state shall charge the political subdivisions that the trainees represent a registration fee that will meet actual and necessary expenses of the training, including instructor fees, site acquisition costs, and the cost of course materials. The necessary personal expenses incurred by the officials as a result of attending the training program shall be borne by the political subdivisions they represent.

The auditor of state shall allow any other interested person to attend any of the training programs that the auditor of state holds pursuant to this section; provided, that before attending any such training program, the interested person shall pay to the auditor of state the full registration fee that the auditor of state has set for the training program.

The auditor of state may provide any other appropriate training or educational programs that may be developed and offered by the auditor of state or in collaboration with one or more other state agencies, political subdivisions, or other public or private entities.

There is hereby established in the state treasury the auditor of state training program fund, to be used by the auditor of state for the actual and necessary expenses of any training programs held pursuant to this section, section 117.441, or section 321.46 of the Revised Code. All registration fees collected under this section shall be paid into the fund.

**Sec. 117.45.** (A) The auditor of state shall draw warrants

against the treasurer of state pursuant to all requests for 2359  
payment that the director of budget and management has approved 2360  
under section 126.07 of the Revised Code. 2361

(B) Unless the director of job and family services has 2362  
provided for the making of payments by electronic benefit 2363  
transfer, if a financial institution and account have been 2364  
designated by the participant or recipient, payment by the auditor 2365  
of state to a participant in the Ohio works first program pursuant 2366  
to Chapter 5107. of the Revised Code or a recipient of disability 2367  
financial assistance pursuant to Chapter 5115. of the Revised Code 2368  
shall be made by direct deposit to the account of the participant 2369  
or recipient in the financial institution. Payment by the auditor 2370  
of state to a recipient of benefits distributed through the medium 2371  
of electronic benefit transfer pursuant to section 5101.33 of the 2372  
Revised Code shall be by electronic benefit transfer. Payment by 2373  
the auditor of state as compensation to an employee of the state 2374  
who has, pursuant to section 124.151 of the Revised Code, 2375  
designated a financial institution and account for the direct 2376  
deposit of such payments shall be made by direct deposit to the 2377  
account of the employee. Payment to any other payee who has 2378  
designated a financial institution and account for the direct 2379  
deposit of such payment may be made by direct deposit to the 2380  
account of the payee in the financial institution as provided in 2381  
section 9.37 of the Revised Code. The auditor of state shall 2382  
contract with an authorized financial institution for the services 2383  
necessary to make direct deposits or electronic benefit transfers 2384  
under this division and draw lump sum warrants payable to that 2385  
institution in the amount to be transferred. Accounts maintained 2386  
by the auditor of state or the auditor of state's agent in a 2387  
financial institution for the purpose of effectuating payment by 2388  
direct deposit or electronic benefit transfer shall be maintained 2389  
in accordance with section 135.18 of the Revised Code. 2390

(C) All other payments from the state treasury shall be made 2391  
by paper warrants or by direct deposit payable to the respective 2392  
payees. The auditor of state may mail the paper warrants to the 2393  
respective payees or distribute them through other state agencies, 2394  
whichever the auditor of state determines to be the better 2395  
procedure. 2396

(D) If the average per transaction cost the auditor of state 2397  
incurs in making direct deposits for a state agency exceeds the 2398  
average per transaction cost the auditor of state incurs in 2399  
drawing paper warrants for all public offices during the same 2400  
period of time, the auditor of state may certify the difference in 2401  
cost and the number of direct deposits for the agency to the 2402  
director of administrative services. The director shall reimburse 2403  
the auditor of state for such additional costs and add the amount 2404  
to the processing charge assessed upon the state agency. 2405

**Sec. 119.035.** An agency may appoint an advisory committee to 2406  
advise the agency concerning its development of a rule, amendment, 2407  
or rescission, and may otherwise consult with persons representing 2408  
interests that would be affected by the rule, amendment, or 2409  
rescission were it actually to be proposed and adopted. ~~Upon an~~ 2410  
~~agency's request, the executive director or another officer or~~ 2411  
~~employee of the Ohio commission on dispute resolution and conflict~~ 2412  
~~management may serve as a group facilitator for, but not as a~~ 2413  
~~member of, such an advisory committee.~~ 2414

**Sec. 121.04.** Offices are created within the several 2415  
departments as follows: 2416

In the department of commerce: 2417  
    Commissioner of securities; 2418  
    Superintendent of real estate and professional 2419  
    licensing;

Superintendent of financial institutions;	2420
Fire marshal;	2421
Superintendent of labor and worker safety;	2422
Beginning on July 1, 1997,	2423
Superintendent of liquor control;	2424
Superintendent of industrial compliance.	2425
In the department of administrative services:	2426
State architect and engineer;	2427
Equal employment opportunity coordinator.	2428
In the department of agriculture:	2429
Chiefs of divisions as follows:	2430
Administration;	2431
Animal industry;	2432
Dairy;	2433
Food safety;	2434
Plant industry;	2435
Markets;	2436
Meat inspection;	2437
Consumer analytical laboratory;	2438
Amusement ride safety;	2439
Enforcement;	2440
Weights and measures.	2441
In the department of natural resources:	2442
Chiefs of divisions as follows:	2443
Water;	2444
Mineral resources management;	2445
Forestry;	2446
Natural areas and preserves;	2447
Wildlife;	2448
Geological survey;	2449
Parks and recreation;	2450

Watercraft;	2451
Recycling and litter prevention;	2452
<del>Civilian conservation;</del>	2453
Soil and water conservation;	2454
Real estate and land management;	2455
Engineering.	2456
In the department of insurance:	2457
Deputy superintendent of insurance;	2458
Assistant superintendent of insurance, technical;	2459
Assistant superintendent of insurance, administrative;	2460
Assistant superintendent of insurance, research.	2461
<b>Sec. 121.084.</b> (A) All moneys collected under sections	2462
<del>1333.96,</del> 3783.05, 3791.07, 4104.07, 4104.18, <del>4104.42,</del> 4104.44,	2463
<del>4104.45,</del> 4105.17, 4105.20, 4169.03, 4171.04, and 5104.051 of the	2464
Revised Code, and any other moneys collected by the division of	2465
industrial compliance shall be paid into the state treasury to the	2466
credit of the industrial compliance operating fund, which is	2467
hereby created. The department of commerce shall use the moneys in	2468
the fund for paying the operating expenses of the division and the	2469
administrative assessment described in division (B) of this	2470
section.	2471
(B) The director of commerce, with the approval of the	2472
director of budget and management, shall prescribe procedures for	2473
assessing the industrial compliance operating fund a proportionate	2474
share of the administrative costs of the department of commerce.	2475
The assessment shall be made in accordance with those procedures	2476
and be paid from the industrial compliance operating fund to the	2477
division of administration fund created in section 121.08 of the	2478
Revised Code.	2479
<b>Sec. 121.36.</b> (A) As used in this section, "home care	2480

dependent adult" means an individual who resides in a private home 2481  
or other noninstitutional and unlicensed living arrangement, 2482  
without the presence of a parent or guardian, but has health and 2483  
safety needs that require the provision of regularly scheduled 2484  
home care services to remain in the home or other living 2485  
arrangement because one of the following is the case: 2486

(1) The individual is at least twenty-one years of age but 2487  
less than sixty years of age and has a disability. 2488

(2) The individual is sixty years of age or older, regardless 2489  
of whether the individual has a disability. 2490

(B) Except as provided in division (D) of this section, the 2491  
departments of mental retardation and developmental disabilities, 2492  
aging, job and family services, and health shall implement this 2493  
section with respect to all contracts for the provision of home 2494  
care services to home care dependent adults that are paid for in 2495  
whole or with federal, state, or local funds. Each department 2496  
shall require all public and private entities that receive money 2497  
from the department to comply with this section when entering into 2498  
contracts for the provision of home care services to home care 2499  
dependent adults that are paid for in whole or in part with 2500  
federal, state, or local funds. Such entities may include county 2501  
boards of mental retardation, area agencies on aging, county 2502  
departments of job and family services, and boards of health of 2503  
city and general health districts. 2504

(C) Beginning one year after the effective date of this 2505  
section, each contract subject to this section shall include terms 2506  
requiring that the provider of home care services to home care 2507  
dependent adults have a system in place that effectively monitors 2508  
whether the provider's employees fulfill their duty to perform the 2509  
services when the services are scheduled to be performed. To be 2510  
considered an effective monitoring system for purposes of the 2511  
contract, the system established by a provider must include at 2512



<u>least the following components:</u>	2513
<u>(1) A mechanism for identifying whether employees are fulfilling their duty to provide home care services when the services are scheduled to be provided;</u>	2514 2515 2516
<u>(2) A protocol to be followed in scheduling a substitute employee when the monitoring mechanism identifies that an employee has failed to provide home care services as scheduled, including standards for determining the length of time that may elapse without jeopardizing the health and safety of the home care dependent adult;</u>	2517 2518 2519 2520 2521 2522
<u>(3) Procedures for maintaining records of the information obtained through the monitoring mechanism and procedures for compiling annual reports of that information;</u>	2523 2524 2525
<u>(4) Procedures for conducting random checks of the accuracy of the monitoring system. For purposes of conducting these checks, random is considered not less than five nor more than fifteen per cent of the provider's employee work shifts.</u>	2526 2527 2528 2529
<u>(D) In implementing this section, the departments shall exempt providers of home care services who are self-employed providers with no other employees or are otherwise considered by the departments not to be agency providers. The departments shall conduct a study on how the exempted providers may be made subject to the requirement of identifying whether home care services are being provided when they are scheduled to be provided. Not later than two years after the effective date of this section, the departments shall prepare a report of their findings and recommendations. The report shall be submitted to the president of the senate and the speaker of the house of representatives.</u>	2530 2531 2532 2533 2534 2535 2536 2537 2538 2539 2540
<u>(E) The departments of mental retardation and developmental disabilities, aging, job and family services, and health shall adopt rules as necessary to implement this section. The rules</u>	2541 2542 2543

shall be adopted in accordance with Chapter 119. of the Revised 2544  
Code. 2545

**Sec. 121.41.** As used in sections 121.41 to 121.50 of the 2546  
Revised Code: 2547

(A) "Appropriate ethics commission" has the same meaning as 2548  
in section 102.01 of the Revised Code. 2549

(B) "Appropriate licensing agency" means a public or private 2550  
entity that is responsible for licensing, certifying, or 2551  
registering persons who are engaged in a particular vocation. 2552

(C) "Person" has the same meaning as in section 1.59 of the 2553  
Revised Code and also includes any officer or employee of the 2554  
state or any political subdivision of the state. 2555

(D)(1) "State agency" has the same meaning as in section 1.60 2556  
of the Revised Code ~~but~~ and also includes any of the following: 2557

(a) The Ohio retirement study council; 2558

(b) The public employees retirement system, state teachers 2559  
retirement system, school employees retirement system, Ohio police 2560  
and fire pension fund, and state highway patrol retirement system; 2561

(c) The Ohio historical society. 2562

(2) "State agency" does not include any of the following: 2563

~~(1)~~(a) The general assembly; 2564

~~(2)~~(b) Any court; 2565

~~(3)~~(c) The secretary of state, auditor of state, treasurer of 2566  
state, or attorney general and their respective offices. 2567

(E) "State employee" means any person who is an employee of a 2568  
state agency or any person who does business with the state. 2569

(F) "State officer" means any person who is elected or 2570  
appointed to a public office in a state agency. 2571

(G) "Wrongful act or omission" means an act or omission, 2572  
committed in the course of office holding or employment, that is 2573  
not in accordance with the requirements of law or ~~such~~ the 2574  
standards of proper governmental conduct ~~as~~ that are commonly 2575  
accepted in the community and thereby subverts, or tends to 2576  
subvert, the process of government. 2577

**Sec. 121.48.** There is hereby created the office of the 2578  
inspector general, to be headed by the inspector general. 2579

The governor shall appoint the inspector general, subject to 2580  
section 121.49 of the Revised Code and the advice and consent of 2581  
the senate. The inspector general shall hold office for a term 2582  
coinciding with the term of the appointing governor. The governor 2583  
may remove the inspector general from office only after delivering 2584  
written notice to the inspector general of the reasons for which 2585  
~~he~~ the governor intends to remove ~~him~~ the inspector general from 2586  
office and providing ~~him~~ the inspector general with an opportunity 2587  
to appear and show cause why ~~he~~ the inspector general should not 2588  
be removed. 2589

In addition to the duties imposed by section 121.42 of the 2590  
Revised Code, the inspector general shall manage the office of the 2591  
inspector general. The inspector general shall establish and 2592  
maintain offices in Columbus. 2593

The inspector general may appoint one or more deputy 2594  
inspectors general. Each deputy inspector general shall serve for 2595  
a term coinciding with the term of the appointing inspector 2596  
general, and shall perform ~~such~~ the duties, including the 2597  
performance of investigations, ~~as~~ that are assigned by the 2598  
inspector general. All deputy inspectors general are in the 2599  
unclassified service and serve at the pleasure of the inspector 2600  
general. 2601

In addition to deputy inspectors general, the inspector 2602  
general may appoint ~~such~~ professional, technical, and clerical 2603  
employees ~~as~~ that are necessary for the effective and efficient 2604  
operation of the office of the inspector general. All 2605  
professional, technical, and clerical employees of the office of 2606  
the inspector general are in the unclassified service and serve at 2607  
the pleasure of the appointing inspector general. 2608

The inspector general may enter into any contracts that are 2609  
necessary to the operation of the office of the inspector general. 2610  
The contracts may include, but are not limited to, contracts for 2611  
the services of persons who are experts in a particular field and 2612  
whose expertise is necessary to the successful completion of an 2613  
investigation. 2614

The inspector general may enter into agreements with state 2615  
agencies for reimbursement of the costs of investigations by the 2616  
inspector general under section 121.42 of the Revised Code and may 2617  
accept from private parties reimbursement of the costs of 2618  
investigations by the inspector general that result in judicial or 2619  
administrative proceedings against the parties. 2620

Not later than the first day of March in each year, the 2621  
inspector general shall publish an annual report summarizing the 2622  
activities of ~~his~~ the inspector general's office during the 2623  
previous calendar year. The annual report shall not disclose the 2624  
results of any investigation insofar as the results are designated 2625  
as confidential under section 121.44 of the Revised Code. 2626

The inspector general shall provide copies of ~~his~~ the 2627  
inspector general's annual report to the governor and the general 2628  
assembly. The inspector general also shall provide a copy of ~~his~~ 2629  
the annual report to any other person who requests the copy and 2630  
pays a fee prescribed by the inspector general. The fee shall not 2631  
exceed the cost of reproducing and delivering the annual report. 2632

Sec. 121.482. There is hereby created in the state treasury 2633  
the inspector general reimbursement fund. All amounts received by 2634  
the inspector general under section 121.48 of the Revised Code as 2635  
reimbursement of the costs of investigation shall be paid into the 2636  
state treasury to the credit of the fund. Money in the fund shall 2637  
be used for the expenses of the office of the inspector general. 2638

**Sec. 121.62.** (A) Each executive agency lobbyist and each 2639  
employer shall file with the joint legislative ethics committee, 2640  
within ten days following the engagement of an executive agency 2641  
lobbyist, an initial registration statement showing all of the 2642  
following: 2643

(1) The name, business address, and occupation of the 2644  
executive agency lobbyist; 2645

(2) The name and business address of the employer or of the 2646  
real party in interest on whose behalf the executive agency 2647  
lobbyist is acting, if it is different from the employer. For the 2648  
purposes of division (A) of this section, where a trade 2649  
association or other charitable or fraternal organization that is 2650  
exempt from federal income taxation under subsection 501(c) of the 2651  
federal Internal Revenue Code is the employer, the statement need 2652  
not list the names and addresses of every member of the 2653  
association or organization, so long as the association or 2654  
organization itself is listed. 2655

(3) A brief description of the executive agency decision to 2656  
which the engagement relates; 2657

(4) The name of the executive agency or agencies to which the 2658  
engagement relates. 2659

(B) In addition to the initial registration statement 2660  
required by division (A) of this section, each executive agency 2661  
lobbyist and employer shall file with the joint committee, not 2662

later than the last day of January, May, and September of each 2663  
year, an updated registration statement that confirms the 2664  
continuing existence of each engagement described in an initial 2665  
registration statement and that lists the specific executive 2666  
agency decisions that the lobbyist sought to influence under the 2667  
engagement during the period covered by the updated statement, and 2668  
with it any statement of expenditures required to be filed by 2669  
section 121.63 of the Revised Code and any details of financial 2670  
transactions required to be filed by section 121.64 of the Revised 2671  
Code. 2672

(C) If an executive agency lobbyist is engaged by more than 2673  
one employer, the lobbyist shall file a separate initial and 2674  
updated registration statement for each engagement. If an employer 2675  
engages more than one executive agency lobbyist, the employer need 2676  
file only one updated registration statement under division (B) of 2677  
this section, which shall contain the information required by 2678  
division (B) of this section regarding all of the executive agency 2679  
lobbyists engaged by the employer. 2680

(D)(1) A change in any information required by division 2681  
(A)(1), (2), or (B) of this section shall be reflected in the next 2682  
updated registration statement filed under division (B) of this 2683  
section. 2684

(2) Within thirty days following the termination of an 2685  
engagement, the executive agency lobbyist who was employed under 2686  
the engagement shall send written notification of the termination 2687  
to the joint committee. 2688

(E) A registration fee of ~~ten~~ twenty-five dollars shall be 2689  
charged for filing an initial registration statement. All money 2690  
collected from this fee shall be deposited into the ~~state treasury~~ 2691  
~~to the credit of the joint legislative ethics committee fund~~ 2692  
~~created under section 101.34 of the Revised Code~~ general revenue 2693  
fund of the state. 2694

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

(G) The executive director of the joint committee shall be responsible for reviewing each registration statement filed with the joint committee under this section and for determining whether the statement contains all of the required information. If the joint committee determines that the registration statement does not contain all of the required information or that an executive agency lobbyist or employer has failed to file a registration statement, the joint committee shall send written notification by certified mail to the person who filed the registration statement regarding the deficiency in the statement or to the person who failed to file the registration statement regarding the failure. Any person so notified by the joint committee shall, not later than fifteen days after receiving the notice, file a registration statement or an amended registration statement that contains all of the required information. If any person who receives a notice under this division fails to file a registration statement or such an amended registration statement within this fifteen-day period, the joint committee shall ~~notify the attorney general, who may take appropriate action as authorized by section 121.69 of the Revised Code~~ assess a late filing fee equal to twelve dollars and fifty cents per day, up to a maximum fee of one hundred dollars, upon that person. The joint committee may waive the late filing fee for good cause shown.

~~If the joint committee notifies the attorney general pursuant to this division, the joint committee shall also notify each~~

~~elected executive official and the director of each department 2727  
created under section 121.02 of the Revised Code of the pending 2728  
investigation. 2729~~

(H) On or before the fifteenth day of March of each year, the 2730  
joint committee shall, in the manner and form that it determines, 2731  
publish a report containing statistical information on the 2732  
registration statements filed with it under this section during 2733  
the preceding year. 2734

(I) If an employer who engages an executive agency lobbyist 2735  
is the recipient of a contract, grant, lease, or other financial 2736  
arrangement pursuant to which funds of the state or of an 2737  
executive agency are distributed or allocated, the executive 2738  
agency or any aggrieved party may consider the failure of the 2739  
employer or the executive agency lobbyist to comply with this 2740  
section as a breach of a material condition of the contract, 2741  
grant, lease, or other financial arrangement. 2742

(J) Executive agency officials may require certification from 2743  
any person seeking the award of a contract, grant, lease, or 2744  
financial arrangement that the person and ~~his~~ the person's 2745  
employer are in compliance with this section. 2746

**Sec. 122.011.** (A) The department of development shall develop 2747  
and promote plans and programs designed to assure that state 2748  
resources are efficiently used, economic growth is properly 2749  
balanced, community growth is developed in an orderly manner, and 2750  
local governments are coordinated with each other and the state, 2751  
and for such purposes may do all of the following: 2752

(1) Serve as a clearinghouse for information, data, and other 2753  
materials that may be helpful or necessary to persons or local 2754  
governments, as provided in section 122.07 of the Revised Code; 2755

(2) Prepare and activate plans for the retention, 2756



development, expansion, and use of the resources and commerce of	2757
the state, as provided in section 122.04 of the Revised Code;	2758
(3) Assist and cooperate with federal, state, and local	2759
governments and agencies of federal, state, and local governments	2760
in the coordination of programs to carry out the functions and	2761
duties of the department;	2762
(4) Encourage and foster research and development activities,	2763
conduct studies related to the solution of community problems, and	2764
develop recommendations for administrative or legislative actions,	2765
as provided in section 122.03 of the Revised Code;	2766
(5) Serve as the economic and community development planning	2767
agency, which shall prepare and recommend plans and programs for	2768
the orderly growth and development of this state and which shall	2769
provide planning assistance, as provided in section 122.06 of the	2770
Revised Code;	2771
(6) Cooperate with and provide technical assistance to state	2772
departments, political subdivisions, regional and local planning	2773
commissions, tourist associations, councils of government,	2774
community development groups, community action agencies, and other	2775
appropriate organizations for carrying out the functions and	2776
duties of the department or for the solution of community	2777
problems;	2778
(7) Coordinate the activities of state agencies that have an	2779
impact on carrying out the functions and duties of the department;	2780
(8) Encourage and assist the efforts of and cooperate with	2781
local governments to develop mutual and cooperative solutions to	2782
their common problems that relate to carrying out the purposes of	2783
this section;	2784
(9) Study existing structure, operations, and financing of	2785
regional or local government and those state activities that	2786
involve significant relations with regional or local governmental	2787

units, recommend to the governor and to the general assembly such 2788  
changes in these provisions and activities as will improve the 2789  
operations of regional or local government, and conduct other 2790  
studies of legal provisions that affect problems related to 2791  
carrying out the purposes of this section; 2792

(10) Appoint, with the approval of the governor, technical 2793  
and other advisory councils as it considers appropriate, as 2794  
provided in section 122.09 of the Revised Code; 2795

(11) Create and operate a division of community development 2796  
to develop and administer programs and activities that are 2797  
authorized by federal statute or the Revised Code; 2798

(12) Until ~~July 1, 2003~~ October 15, 2005, establish fees and 2799  
charges, in consultation with the director of agriculture, for 2800  
purchasing loans from financial institutions and providing loan 2801  
guarantees under the family farm loan program created under 2802  
sections 901.80 to 901.83 of the Revised Code; 2803

(13) Provide loan servicing for the loans purchased and loan 2804  
guarantees provided under section 901.80 of the Revised Code as 2805  
that section existed prior to ~~July 1, 2003~~ October 15, 2005; 2806

(14) Until ~~July 1, 2003~~ October 15, 2005, and upon approval 2807  
by the controlling board under division (A)(3) of section 901.82 2808  
of the Revised Code of the release of money to be used for 2809  
purchasing a loan or providing a loan guarantee, request the 2810  
release of that money in accordance with division (B) of section 2811  
166.03 of the Revised Code for use for the purposes of the fund 2812  
created by section 166.031 of the Revised Code. 2813

(B) The director of development may request the attorney 2814  
general to, and the attorney general, in accordance with section 2815  
109.02 of the Revised Code, shall bring a civil action in any 2816  
court of competent jurisdiction. The director may be sued in the 2817  
director's official capacity, in connection with this chapter, in 2818

accordance with Chapter 2743. of the Revised Code.	2819
<b>Sec. 122.04.</b> The department of development shall <u>do the</u>	2820
<u>following:</u>	2821
(A) Maintain a continuing evaluation of the sources available	2822
for the retention, development, or expansion of industrial and	2823
commercial facilities in this state through both public and	2824
private agencies;	2825
(B) Assist public and private agencies in obtaining	2826
information necessary to evaluate the desirability of the	2827
retention, construction, or expansion of industrial and commercial	2828
facilities in the state;	2829
(C) Facilitate contracts between community improvement	2830
corporations organized under Chapter 1724. of the Revised Code or	2831
Ohio development corporations organized under Chapter 1726. of the	2832
Revised Code and industrial and commercial concerns seeking to	2833
locate or expand in <del>Ohio</del> <u>the state</u> ;	2834
(D) Upon request, consult with public agencies or authorities	2835
in the preparation of studies of human and economic needs or	2836
advantages relating to economic and community development;	2837
(E) Encourage, promote, and assist trade and commerce between	2838
this state and foreign nations;	2839
(F) Promote and encourage persons to visit and travel within	2840
this state;	2841
(G) Maintain membership in <u>the</u> national association of state	2842
development agencies;	2843
(H) Assist in the development of facilities and technologies	2844
that will lead to increased, environmentally sound use of Ohio	2845
coal;	2846
<u>(I) Promote economic growth in the state.</u>	2847

Sec. 122.041. The director of development shall do all of the 2848  
following with regard to the encouraging diversity, growth, and 2849  
equity program created under section 123.152 of the Revised Code: 2850

(A) Conduct outreach, marketing, and recruitment of EDGE 2852  
business enterprises, as defined in that section; 2853

(B) Provide assistance to the department of administrative 2854  
services, as needed, to certify new EDGE business enterprises and 2855  
to train appropriate state agency staff; 2856

(C) Provide business development services to EDGE business 2857  
enterprises in the developmental and transitional stages of the 2858  
program, including financial and bonding assistance and management 2859  
and technical assistance; 2860

(D) Develop a mentor program to bring businesses into a 2861  
working relationship with EDGE business enterprises in a way that 2862  
commercially benefits both entities and serves the purpose of the 2863  
EDGE program; 2864

(E) Not later than December 31, 2003, prepare and submit to 2865  
the governor a detailed report outlining and evaluating the 2866  
progress made in implementing the encouraging diversity, growth, 2867  
and equity program; 2868

(F) Establish processes by which an EDGE business enterprise 2869  
may apply for contract assistance, financial and bonding 2870  
assistance, management and technical assistance, and mentoring 2871  
opportunities. 2872

**Sec. 122.08.** (A) There is hereby created within the 2873  
department of development an office to be known as the office of 2874  
small business. The office shall be under the supervision of a 2875  
manager appointed by the director of development. 2876

(B) The office shall do all of the following:	2877
(1) Act as liaison between the small business community and state governmental agencies;	2878 2879
(2) Furnish information and technical assistance to persons and small businesses concerning the establishment and maintenance of a small business, and concerning state laws and rules relevant to the operation of a small business. In conjunction with these duties, the office shall keep a record of all state agency rules affecting individuals, small businesses, or small organizations, as defined in section 121.24 of the Revised Code, and may testify before the joint committee on agency rule review concerning any proposed rule affecting individuals, small businesses, or small organizations.	2880 2881 2882 2883 2884 2885 2886 2887 2888 2889
(3) Prepare and publish the small business register under section 122.081 of the Revised Code;	2890 2891
(4) Receive complaints from small businesses concerning governmental activity, compile and analyze those complaints, and periodically make recommendations to the governor and the general assembly on changes in state laws or agency rules needed to eliminate burdensome and unproductive governmental regulation to improve the economic climate within which small businesses operate;	2892 2893 2894 2895 2896 2897 2898
(5) Receive complaints or questions from small businesses and direct <del>such</del> <u>those</u> businesses to the appropriate governmental agency. If, within a reasonable period of time, a complaint is not satisfactorily resolved or a question is not satisfactorily answered, the office shall, on behalf of the small business, make every effort to secure a satisfactory result. For this purpose, the office may consult with any state governmental agency and may make any suggestion or request that seems appropriate.	2899 2900 2901 2902 2903 2904 2905 2906
(6) Utilize, to the maximum extent possible, the printed and	2907

electronic media to disseminate information of current concern and 2908  
interest to the small business community and to make known to 2909  
small businesses the services available through the office. The 2910  
office shall publish such books, pamphlets, and other printed 2911  
materials, and shall participate in such trade association 2912  
meetings, conventions, fairs, and other meetings involving the 2913  
small business community, as the manager considers appropriate. 2914

(7) Prepare for inclusion in the department of development's 2915  
annual report to the governor and general assembly, a description 2916  
of the activities of the office and a report of the number of 2917  
rules affecting individuals, small businesses, and small 2918  
organizations that were filed with the office under division 2919  
(B)(2) of section 121.24 of the Revised Code, during the preceding 2920  
calendar year; 2921

(8) Operate the Ohio ~~one-stop-business-permit-center~~ 2922  
first-stop business connection to assist individuals in 2923  
identifying and preparing applications for business licenses, 2924  
permits, and certificates and to serve as the central public 2925  
distributor for all forms, applications, and other information 2926  
related to business licensing. Each state agency, board, and 2927  
commission shall cooperate in providing assistance, information, 2928  
and materials to enable the ~~center connection~~ to perform its 2929  
duties under this division ~~(B)(8) of this section.~~ 2930

(C) The office ~~of small-business~~ may, upon the request of a 2931  
state agency, assist the agency with the preparation of any rule 2932  
that will affect individuals, small businesses, or small 2933  
organizations. 2934

(D) The director of development shall assign ~~such~~ employees 2935  
and furnish ~~such~~ equipment and supplies to the office as the 2936  
director considers necessary for the proper performance of the 2937  
duties assigned to the office. 2938

Sec. 122.17. (A) As used in this section:	2939
(1) "Full-time employee" means an individual who is employed for consideration for at least thirty-five hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.	2940 2941 2942 2943
(2) "New employee" means one of the following:	2944
(a) A full-time employee first employed by a taxpayer in the project that is the subject of the agreement after the taxpayer enters into a tax credit agreement with the tax credit authority under this section;	2945 2946 2947 2948
(b) A full-time employee first employed by a taxpayer in the project that is the subject of the tax credit after the tax credit authority approves a project for a tax credit under this section in a public meeting, as long as the taxpayer enters into the tax credit agreement prepared by the department of development after such meeting within sixty days after receiving the agreement from the department. If the taxpayer fails to enter into the agreement within sixty days, "new employee" has the same meaning as under division (A)(2)(a) of this section.	2949 2950 2951 2952 2953 2954 2955 2956 2957
Under division (A)(2)(a) or (b) of this section, if the tax credit authority determines it appropriate, "new employee" also may include an employee re-hired or called back from lay-off to work in a new facility or on a new product or service established or produced by the taxpayer after entering into the agreement under this section or after the tax credit authority approves the tax credit in a public meeting. "New employee" does not include any employee of the taxpayer who was previously employed in this state by a related member of the taxpayer and whose employment was shifted to the taxpayer after the taxpayer entered into the tax credit agreement or after the tax credit authority approved the	2958 2959 2960 2961 2962 2963 2964 2965 2966 2967 2968

credit in a public meeting, or any employee of the taxpayer for 2969  
which the taxpayer has been granted a certificate under division 2970  
(B) of section 5709.66 of the Revised Code. "New employee" also 2971  
does not include an employee of the taxpayer who is employed in an 2972  
employment position that was relocated to a project from other 2973  
operations of the taxpayer in this state or from operations of a 2974  
related member of the taxpayer in this state. In addition, "new 2975  
employee" does not include a child, grandchild, parent, or spouse, 2976  
other than a spouse who is legally separated from the individual, 2977  
of any individual who is an employee of the taxpayer and who has a 2978  
direct or indirect ownership interest of at least five per cent in 2979  
the profits, capital, or value of the taxpayer. Such ownership 2980  
interest shall be determined in accordance with section 1563 of 2981  
the Internal Revenue Code and regulations prescribed thereunder. 2982

(3) "New income tax revenue" means the total amount withheld 2983  
under section 5747.06 of the Revised Code by the taxpayer during 2984  
the taxable year from the compensation of new employees for the 2985  
tax levied under Chapter 5747. of the Revised Code. 2986

(4) "Related member" has the same meaning as under division 2987  
(A)(6) of section 5733.042 of the Revised Code without regard to 2988  
division (B) of that section. 2989

(B) The tax credit authority may make grants under this 2990  
section to foster job creation in this state. Such a grant shall 2991  
take the form of a refundable credit allowed against the tax 2992  
imposed by section 5733.06 or 5747.02 of the Revised Code. The 2993  
credit shall be claimed for the taxable years specified in the 2994  
taxpayer's agreement with the tax credit authority under division 2995  
(D) of this section. The credit shall be claimed after the 2996  
allowance of all other credits provided by Chapter 5733. or 5747. 2997  
of the Revised Code. The amount of the credit equals the new 2998  
income tax revenue for the taxable year multiplied by the 2999  
percentage specified in the agreement with the tax credit 3000



authority. 3001

(C) A taxpayer or potential taxpayer who proposes a project 3002  
to create new jobs in this state may apply to the tax credit 3003  
authority to enter into an agreement for a tax credit under this 3004  
section. The director of development shall prescribe the form of 3005  
the application. After receipt of an application, the authority 3006  
may enter into an agreement with the taxpayer for a credit under 3007  
this section if it determines all of the following: 3008

(1) The taxpayer's project will create new jobs in this 3009  
state; 3010

(2) The taxpayer's project is economically sound and will 3011  
benefit the people of this state by increasing opportunities for 3012  
employment and strengthening the economy of this state; 3013

(3) Receiving the tax credit is a major factor in the 3014  
taxpayer's decision to go forward with the project. 3015

(D) An agreement under this section shall include all of the 3016  
following: 3017

(1) A detailed description of the project that is the subject 3018  
of the agreement; 3019

(2) The term of the tax credit, which shall not exceed ~~ten~~ 3020  
fifteen years, and the first taxable year for which the credit may 3021  
be claimed; 3022

(3) A requirement that the taxpayer shall maintain operations 3023  
at the project location for at least twice the number of years as 3024  
the term of the tax credit; 3025

(4) The percentage, as determined by the tax credit 3026  
authority, of new income tax revenue that will be allowed as the 3027  
amount of the credit for each taxable year; 3028

(5) A specific method for determining how many new employees 3029  
are employed during a taxable year; 3030

(6) A requirement that the taxpayer annually shall report to 3031  
the director of development the number of new employees, the new 3032  
income tax revenue withheld in connection with the new employees, 3033  
and any other information the director needs to perform ~~his~~ the 3034  
director's duties under this section; 3035

(7) A requirement that the director of development annually 3036  
shall verify the amounts reported under division (D)(6) of this 3037  
section, and after doing so shall issue a certificate to the 3038  
taxpayer stating that the amounts have been verified; 3039

(8)(a) A provision requiring that the taxpayer, except as 3040  
otherwise provided in division (D)(8)(b) of this section, shall 3041  
not relocate employment positions from elsewhere in this state to 3042  
the project site that is the subject of the agreement for the 3043  
lesser of five years from the date the agreement is entered into 3044  
or the number of years the taxpayer is entitled to claim the tax 3045  
credit. 3046

(b) The taxpayer may relocate employment positions from 3047  
elsewhere in this state to the project site that is the subject of 3048  
the agreement if the director of development determines both of 3049  
the following: 3050

(i) That the site from which the employment positions would 3051  
be relocated is inadequate to meet market and industry conditions, 3052  
expansion plans, consolidation plans, or other business 3053  
considerations affecting the taxpayer; 3054

(ii) That the legislative authority of the county, township, 3055  
or municipal corporation from which the employment positions would 3056  
be relocated has been notified of the relocation. 3057

For purposes of this section, the movement of an employment 3058  
position from one political subdivision to another political 3059  
subdivision shall be considered a relocation of an employment 3060  
position, but the transfer of an individual employee from one 3061

political subdivision to another political subdivision shall not 3062  
be considered a relocation of an employment position as long as 3063  
the individual's employment position in the first political 3064  
subdivision is refilled. 3065

(E) If a taxpayer fails to meet or comply with any condition 3066  
or requirement set forth in a tax credit agreement, the tax credit 3067  
authority may amend the agreement to reduce the percentage or term 3068  
of the tax credit. The reduction of the percentage or term shall 3069  
take effect in the taxable year immediately following the taxable 3070  
year in which the authority amends the agreement. If the taxpayer 3071  
relocates employment positions in violation of the provision 3072  
required under division (D)(8)(a) of this section, the taxpayer 3073  
shall not claim the tax credit under section 5733.0610 of the 3074  
Revised Code for any tax years following the calendar year in 3075  
which the relocation occurs, or shall not claim the tax credit 3076  
under section 5747.058 of the Revised Code for the taxable year in 3077  
which the relocation occurs and any subsequent taxable years. 3078

(F) Projects that consist solely of point-of-final-purchase 3079  
retail facilities are not eligible for a tax credit under this 3080  
section. If a project consists of both point-of-final-purchase 3081  
retail facilities and nonretail facilities, only the portion of 3082  
the project consisting of the nonretail facilities is eligible for 3083  
a tax credit and only the new income tax revenue from new 3084  
employees of the nonretail facilities shall be considered when 3085  
computing the amount of the tax credit. If a warehouse facility is 3086  
part of a point-of-final-purchase retail facility and supplies 3087  
only that facility, the warehouse facility is not eligible for a 3088  
tax credit. Catalog distribution centers are not considered 3089  
point-of-final-purchase retail facilities for the purposes of this 3090  
division, and are eligible for tax credits under this section. 3091

(G) Financial statements and other information submitted to 3092  
the department of development or the tax credit authority by an 3093

applicant or recipient of a tax credit under this section, and any 3094  
information taken for any purpose from such statements or 3095  
information, are not public records subject to section 149.43 of 3096  
the Revised Code. However, the chairperson of the authority may 3097  
make use of the statements and other information for purposes of 3098  
issuing public reports or in connection with court proceedings 3099  
concerning tax credit agreements under this section. Upon the 3100  
request of the tax commissioner, the chairperson of the authority 3101  
shall provide to the commissioner any statement or information 3102  
submitted by an applicant or recipient of a tax credit in 3103  
connection with the credit. The commissioner shall preserve the 3104  
confidentiality of the statement or information. 3105

(H) A taxpayer claiming a credit under this section shall 3106  
submit to the tax commissioner a copy of the director of 3107  
development's certificate of verification under division (D)(7) of 3108  
this section for the taxable year. However, failure to submit a 3109  
copy of the certificate does not invalidate a claim for a credit. 3110

(I) The director of development, after consultation with the 3111  
tax commissioner and in accordance with Chapter 119. of the 3112  
Revised Code, shall adopt rules necessary to implement this 3113  
section. The rules may provide for recipients of tax credits under 3114  
this section to be charged fees to cover administrative costs of 3115  
the tax credit program. At the time the director gives public 3116  
notice under division (A) of section 119.03 of the Revised Code of 3117  
the adoption of the rules, the director shall submit copies of the 3118  
proposed rules to the chairpersons of the standing committees on 3119  
economic development in the senate and the house of 3120  
representatives. 3121

(J) For the purposes of this section, a taxpayer may include 3122  
a partnership, a corporation that has made an election under 3123  
subchapter S of chapter one of subtitle A of the Internal Revenue 3124  
Code, or any other business entity through which income flows as a 3125

distributive share to its owners. A credit received under this 3126  
section by a partnership, S-corporation, or other such business 3127  
entity shall be apportioned among the persons to whom the income 3128  
or profit of the partnership, S-corporation, or other entity is 3129  
distributed, in the same proportions as those in which the income 3130  
or profit is distributed. 3131

(K) If the director of development determines that a taxpayer 3132  
who has received a credit under this section is not complying with 3133  
the requirement under division (D)(3) of this section, the 3134  
director shall notify the tax credit authority of the 3135  
noncompliance. After receiving such a notice, and after giving the 3136  
taxpayer an opportunity to explain the noncompliance, the tax 3137  
credit authority may require the taxpayer to refund to this state 3138  
a portion of the credit in accordance with the following: 3139

(1) If the taxpayer maintained operations at the project 3140  
location for at least one and one-half times the number of years 3141  
of the term of the tax credit, an amount not exceeding twenty-five 3142  
per cent of the sum of any previously allowed credits under this 3143  
section; 3144

(2) If the taxpayer maintained operations at the project 3145  
location for at least the number of years of the term of the tax 3146  
credit, an amount not exceeding fifty per cent of the sum of any 3147  
previously allowed credits under this section; 3148

(3) If the taxpayer maintained operations at the project 3149  
location for less than the number of years of the term of the tax 3150  
credit, an amount not exceeding one hundred per cent of the sum of 3151  
any previously allowed credits under this section. 3152

In determining the portion of the tax credit to be refunded 3153  
to this state, the tax credit authority shall consider the effect 3154  
of market conditions on the taxpayer's project and whether the 3155  
taxpayer continues to maintain other operations in this state. 3156

After making the determination, the authority shall certify the 3157  
amount to be refunded to the tax commissioner. The commissioner 3158  
shall make an assessment for that amount against the taxpayer 3159  
under Chapter 5733. or 5747. of the Revised Code. The time 3160  
limitations on assessments under Chapter 5733. or 5747. of the 3161  
Revised Code do not apply to an assessment under this division, 3162  
but the commissioner shall make the assessment within one year 3163  
after the date the authority certifies to the commissioner the 3164  
amount to be refunded. 3165

(L) On or before the thirty-first day of March each year, the 3166  
director of development shall submit a report to the governor, the 3167  
president of the senate, and the speaker of the house of 3168  
representatives on the tax credit program under this section. The 3169  
report shall include information on the number of agreements that 3170  
were entered into under this section during the preceding calendar 3171  
year, a description of the project that is the subject of each 3172  
such agreement, and an update on the status of projects under 3173  
agreements entered into before the preceding calendar year. 3174

During the fifth year of the tax credit program, the director 3175  
of development in conjunction with the director of budget and 3176  
management shall conduct an evaluation of it. The evaluation shall 3177  
include assessments of the effectiveness of the program in 3178  
creating new jobs in this state and of the revenue impact of the 3179  
program, and may include a review of the practices and experiences 3180  
of other states with similar programs. The director of development 3181  
shall submit a report on the evaluation to the governor, the 3182  
president of the senate, and the speaker of the house of 3183  
representatives on or before January 1, 1998. 3184

(M) There is hereby created the tax credit authority, which 3185  
consists of the director of development and four other members 3186  
appointed as follows: the governor, the president of the senate, 3187  
and the speaker of the house of representatives each shall appoint 3188

one member who shall be a specialist in economic development; the 3189  
governor also shall appoint a member who is a specialist in 3190  
taxation. Of the initial appointees, the members appointed by the 3191  
governor shall serve a term of two years; the members appointed by 3192  
the president of the senate and the speaker of the house of 3193  
representatives shall serve a term of four years. Thereafter, 3194  
terms of office shall be for four years. Initial appointments to 3195  
the authority shall be made within thirty days after January 13, 3196  
1993. Each member shall serve on the authority until the end of 3197  
the term for which the member was appointed. Vacancies shall be 3198  
filled in the same manner provided for original appointments. Any 3199  
member appointed to fill a vacancy occurring prior to the 3200  
expiration of the term for which the member's predecessor was 3201  
appointed shall hold office for the remainder of that term. 3202  
Members may be reappointed to the authority. Members of the 3203  
authority shall receive their necessary and actual expenses while 3204  
engaged in the business of the authority. The director of 3205  
development shall serve as chairperson of the authority, and the 3206  
members annually shall elect a vice-chairperson from among 3207  
themselves. Three members of the authority constitute a quorum to 3208  
transact and vote on the business of the authority. The majority 3209  
vote of the membership of the authority is necessary to approve 3210  
any such business, including the election of the vice-chairperson. 3211

The director of development may appoint a professional 3212  
employee of the department of development to serve as the 3213  
director's substitute at a meeting of the authority. The director 3214  
shall make the appointment in writing. In the absence of the 3215  
director from a meeting of the authority, the appointed substitute 3216  
shall serve as chairperson. In the absence of both the director 3217  
and the director's substitute from a meeting, the vice-chairperson 3218  
shall serve as chairperson. 3219

**Sec. 122.171.** (A) As used in this section: 3220

(1) "Capital investment project" means a plan of investment	3221
at a project site for the acquisition, construction, renovation,	3222
or repair of buildings, machinery, or equipment, or for	3223
capitalized costs of basic research and new product development	3224
determined in accordance with generally accepted accounting	3225
principles, but does not include any of the following:	3226
(a) Payments made for the acquisition of personal property	3227
through operating leases;	3228
(b) Project costs paid before January 1, 2002, or after	3229
December 31, 2006;	3230
(c) Payments made to a related member as defined in section	3231
5733.042 of the Revised Code.	3232
(2) "Eligible business" means a business with Ohio operations	3233
satisfying all of the following:	3234
(a) Employed an average of at least one thousand employees in	3235
full-time employment positions at a project site during each of	3236
the twelve months preceding the application for a tax credit under	3237
this section; and	3238
(b) On or after January 1, 2002, has made payments for the	3239
capital investment project of either of the following:	3240
(i) At least two hundredmillion dollars in the aggregate at	3241
the project site during a period of three consecutive calendar	3242
years including the calendar year that includes a day of the	3243
taxpayer's taxable year with respect to which the credit is	3244
granted;	3245
(ii) If the average wage of all full-time employment	3246
positions at the project site is greater than four hundred per	3247
cent of the federal minimum wage, at least one hundred million	3248
dollars in the aggregate at the project site during a period of	3249
three consecutive calendar years including the calendar year that	3250



includes a day of the taxpayer's taxable year with respect to 3251  
which the credit is granted. 3252

(c) Is engaged at the project site primarily as a 3253  
manufacturer or is providing significant corporate administrative 3254  
functions; 3255

(d) Has had a capital investment project reviewed and 3256  
approved by the tax credit authority as provided in divisions (C), 3257  
(D), and (E) of this section. 3258

(3) "Full-time employment position" means a position of 3259  
employment for consideration for at least thirty-five hours a week 3260  
that has been filled for at least one hundred eighty days 3261  
immediately preceding the filing of an application under this 3262  
section and for at least one hundred eighty days during each 3263  
taxable year with respect to which the credit is granted. 3264

(4) "Manufacturer" has the same meaning as in section 3265  
5739.011 of the Revised Code. 3266

(5) "Project site" means an integrated complex of facilities 3267  
in this state, as specified by the tax credit authority under this 3268  
section, within a fifteen-mile radius where a taxpayer is 3269  
primarily operating as an eligible business. 3270

(6) "Applicable corporation" means a corporation satisfying 3271  
all of the following: 3272

(a)(i) For the entire taxable year immediately preceding the 3273  
tax year, the corporation develops software applications primarily 3274  
to provide telecommunication billing and information services 3275  
through outsourcing or licensing to domestic or international 3276  
customers. 3277

(ii) Sales and licensing of software generated at least six 3278  
hundred million dollars in revenue during the taxable year 3279  
immediately preceding the tax year the corporation is first 3280

entitled to claim the credit provided under division (B) of this section. 3281  
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(b) For the entire taxable year immediately preceding the tax year, the corporation or one or more of its related members provides customer or employee care and technical support for clients through one or more contact centers within this state, and the corporation and its related members together have a daily average, based on a three hundred sixty-five day year, of at least five hundred thousand successful customer contacts through one or more of their contact centers, wherever located. 3283  
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(c) The corporation is eligible for the credit under division (B) of this section for the tax year. 3291  
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(7) "Related member" has the same meaning as in section 5733.042 of the Revised Code as that section existed on the effective date of its amendment by Am. Sub. H.B. 215 of the 122nd general assembly. 3293  
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(8) "Successful customer contact" means a contact with an end user via telephone, including interactive voice recognition or similar means, where the contact culminates in a conversation or connection other than a busy signal or equipment busy. 3297  
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(9) "Telecommunications" means all forms of telecommunications service as defined in section 5739.01 of the Revised Code, and includes services in wireless, wireline, cable, broadband, internet protocol, and satellite. 3301  
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(10)(a) "Applicable difference" means the difference between the tax for the tax year under Chapter 5733. of the Revised Code applying the law in effect for that tax year, and the tax for that tax year if section 5733.042 of the Revised Code applied as that section existed on the effective date of its amendment by Am. Sub. H.B. 215 of the 122nd general assembly, subject to division (A)(10)(b) of this section. 3305  
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(b) If the tax rate set forth in division (B) of section 5733.06 of the Revised Code for the tax year is less than eight and one-half per cent, the tax calculated under division (A)(10)(a) of this section shall be computed by substituting a tax rate of eight and one-half per cent for the rate set forth in division (B) of section 5733.06 of the Revised Code for the tax year. 3312  
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(c) If the resulting difference is negative, the applicable tax difference for the tax year shall be zero. 3319  
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(B) The tax credit authority created under section 122.17 of the Revised Code may grant tax credits under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the recommendation of the director of budget and management, tax commissioner, and director of development under division (C) of this section, the tax credit authority may grant to an eligible business a nonrefundable credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code for a period up to ~~ten~~ fifteen taxable years. The credit shall be in an amount not exceeding seventy-five per cent of the Ohio income tax withheld from the employees of the eligible business occupying full-time employment positions at the project site during the calendar year that includes the last day of such business' taxable year with respect to which the credit is granted. The amount of the credit shall not be based on the Ohio income tax withheld from full-time employees for a calendar year prior to the calendar year in which the minimum investment requirement referred to in division (A)(2)(b) of this section is completed. The credit shall be claimed only for the taxable years specified in the eligible business' agreement with the tax credit authority under division (E) of this section, but in no event shall the credit be claimed for a taxable year terminating before the date specified in the 3321  
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agreement. 3344

The credit computed under this division is in addition to any 3345  
credit allowed under division (M) of this section. 3346

Any unused portion of a tax credit may be carried forward for 3347  
not more than three additional years after the year for which the 3348  
credit is granted. 3349

(C) A taxpayer that proposes a capital investment project to 3350  
retain jobs in this state may apply to the tax credit authority to 3351  
enter into an agreement for a tax credit under this section. The 3352  
director of development shall prescribe the form of the 3353  
application. After receipt of an application, the authority shall 3354  
forward copies of the application to the director of budget and 3355  
management, the tax commissioner, and the director of development, 3356  
each of whom shall review the application to determine the 3357  
economic impact the proposed project would have on the state and 3358  
the affected political subdivisions and shall submit a summary of 3359  
their determinations and recommendations to the authority. The 3360  
authority shall make no agreements under this section after June 3361  
30, 2007. 3362

(D) Upon review of the determinations and recommendations 3363  
described in division (C) of this section, the tax credit 3364  
authority may enter into an agreement with the taxpayer for a 3365  
credit under this section if the authority determines all of the 3366  
following: 3367

(1) The taxpayer's capital investment project will result in 3368  
the retention of full-time employment positions in this state. 3369

(2) The taxpayer is economically sound and has the ability to 3370  
complete the proposed capital investment project. 3371

(3) The taxpayer intends to and has the ability to maintain 3372  
operations at the project site for at least twice the term of the 3373  
credit. 3374

(4) Receiving the credit is a major factor in the taxpayer's decision to begin, continue with, or complete the project.	3375 3376
(5) The political subdivisions in which the project is located have agreed to provide substantial financial support to the project.	3377 3378 3379
(E) An agreement under this section shall include all of the following:	3380 3381
(1) A detailed description of the project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, and the number of full-time employment positions at the project site.	3382 3383 3384 3385
(2) The method of calculating the number of full-time employment positions as specified in division (A)(3) of this section.	3386 3387 3388
(3) The term and percentage of the tax credit, and the first year for which the credit may be claimed.	3389 3390
(4) A requirement that the taxpayer maintain operations at the project site for at least twice the number of years as the term of the credit.	3391 3392 3393
(5) A requirement that the taxpayer retain a specified number of full-time employment positions at the project site and within this state for the term of the credit, including a requirement that the taxpayer continue to employ at least one thousand employees in full-time employment positions at the project site during the entire term of any agreement, subject to division (E)(7) of this section.	3394 3395 3396 3397 3398 3399 3400
(6) A requirement that the taxpayer annually report to the director of development the number of full-time employment positions subject to the credit, the amount of tax withheld from employees in those positions, the amount of the payments made for	3401 3402 3403 3404

the capital investment project, and any other information the 3405  
director needs to perform the director's duties under this 3406  
section. 3407

(7) A requirement that the director of development annually 3408  
review the annual reports of the taxpayer to verify the 3409  
information reported under division (E)(6) of this section and 3410  
compliance with the agreement. Upon verification, the director 3411  
shall issue a certificate to the taxpayer stating that the 3412  
information has been verified and identifying the amount of the 3413  
credit for the taxable year. The Unless otherwise specified by the 3414  
tax credit authority in a resolution and included as part of the 3415  
agreement, the director shall not issue a certificate for any year 3416  
in which the total number of filled full-time employment positions 3417  
for each day of the calendar year divided by three hundred 3418  
sixty-five is less than ninety per cent of the full-time 3419  
employment positions specified in division (E)(5) of this section. 3420  
In determining the number of full-time employment positions, no 3421  
position shall be counted that is filled by an employee who is 3422  
included in the calculation of a tax credit under section 122.17 3423  
of the Revised Code. 3424

(8)(a) A provision requiring that the taxpayer, except as 3425  
otherwise provided in division (E)(8)(b) of this section, shall 3426  
not relocate employment positions from elsewhere in this state to 3427  
the project site that is the subject of the agreement for the 3428  
lesser of five years from the date the agreement is entered into 3429  
or the number of years the taxpayer is entitled to claim the 3430  
credit. 3431

(b) The taxpayer may relocate employment positions from 3432  
elsewhere in this state to the project site that is the subject of 3433  
the agreement if the director of development determines both of 3434  
the following: 3435

(i) That the site from which the employment positions would 3436

be relocated is inadequate to meet market and industry conditions, 3437  
expansion plans, consolidation plans, or other business 3438  
considerations affecting the taxpayer; 3439

(ii) That the legislative authority of the county, township, 3440  
or municipal corporation from which the employment positions would 3441  
be relocated has been notified of the relocation. 3442

For purposes of this section, the movement of an employment 3443  
position from one political subdivision to another political 3444  
subdivision shall be considered a relocation of an employment 3445  
position unless the movement is confined to the project site. The 3446  
transfer of an individual employee from one political subdivision 3447  
to another political subdivision shall not be considered a 3448  
relocation of an employment position as long as the individual's 3449  
employment position in the first political subdivision is 3450  
refilled. 3451

(9) A waiver by the taxpayer of any limitations periods 3452  
relating to assessments or adjustments resulting from the 3453  
taxpayer's failure to comply with the agreement. 3454

(F) If a taxpayer fails to meet or comply with any condition 3455  
or requirement set forth in a tax credit agreement, the tax credit 3456  
authority may amend the agreement to reduce the percentage or term 3457  
of the credit. The reduction of the percentage or term shall take 3458  
effect in the taxable year immediately following the taxable year 3459  
in which the authority amends the agreement. If the taxpayer 3460  
relocates employment positions in violation of the provision 3461  
required under division (D)(8)(a) of this section, the taxpayer 3462  
shall not claim the tax credit under section 5733.0610 of the 3463  
Revised Code for any tax years following the calendar year in 3464  
which the relocation occurs, or shall not claim the tax credit 3465  
under section 5747.058 of the Revised Code for the taxable year in 3466  
which the relocation occurs and any subsequent taxable years. 3467

(G) Financial statements and other information submitted to 3468  
the department of development or the tax credit authority by an 3469  
applicant for or recipient of a tax credit under this section, and 3470  
any information taken for any purpose from such statements or 3471  
information, are not public records subject to section 149.43 of 3472  
the Revised Code. However, the chairperson of the authority may 3473  
make use of the statements and other information for purposes of 3474  
issuing public reports or in connection with court proceedings 3475  
concerning tax credit agreements under this section. Upon the 3476  
request of the tax commissioner, the chairperson of the authority 3477  
shall provide to the commissioner any statement or other 3478  
information submitted by an applicant for or recipient of a tax 3479  
credit in connection with the credit. The commissioner shall 3480  
preserve the confidentiality of the statement or other 3481  
information. 3482

(H) A taxpayer claiming a tax credit under this section shall 3483  
submit to the tax commissioner a copy of the director of 3484  
development's certificate of verification under division (E)(7) of 3485  
this section for the taxable year. However, failure to submit a 3486  
copy of the certificate does not invalidate a claim for a credit. 3487

(I) For the purposes of this section, a taxpayer may include 3488  
a partnership, a corporation that has made an election under 3489  
subchapter S of chapter one of subtitle A of the Internal Revenue 3490  
Code, or any other business entity through which income flows as a 3491  
distributive share to its owners. A tax credit received under this 3492  
section by a partnership, S-corporation, or other such business 3493  
entity shall be apportioned among the persons to whom the income 3494  
or profit of the partnership, S-corporation, or other entity is 3495  
distributed, in the same proportions as those in which the income 3496  
or profit is distributed. 3497

(J) If the director of development determines that a taxpayer 3498  
that received a tax credit under this section is not complying 3499



with the requirement under division (E)(4) of this section, the 3500  
director shall notify the tax credit authority of the 3501  
noncompliance. After receiving such a notice, and after giving the 3502  
taxpayer an opportunity to explain the noncompliance, the 3503  
authority may terminate the agreement and require the taxpayer to 3504  
refund to the state all or a portion of the credit claimed in 3505  
previous years, as follows: 3506

(1) If the taxpayer maintained operations at the project site 3507  
for less than the term of the credit, the amount required to be 3508  
refunded shall not exceed the amount of any tax credits previously 3509  
allowed and received under this section. 3510

(2) If the taxpayer maintained operations at the project site 3511  
longer than the term of the credit but less than one and one-half 3512  
times the term of the credit, the amount required to be refunded 3513  
shall not exceed fifty per cent of the sum of any tax credits 3514  
previously allowed and received under this section. 3515

(3) If the taxpayer maintained operations at the project site 3516  
for at least one and one-half times the term of the credit but 3517  
less than twice the term of the credit, the amount required to be 3518  
refunded shall not exceed twenty-five per cent of the sum of any 3519  
tax credits previously allowed and received under this section. 3520

In determining the portion of the credit to be refunded to 3521  
this state, the authority shall consider the effect of market 3522  
conditions on the taxpayer's project and whether the taxpayer 3523  
continues to maintain other operations in this state. After making 3524  
the determination, the authority shall certify the amount to be 3525  
refunded to the tax commissioner. The commissioner shall make an 3526  
assessment for that amount against the taxpayer under Chapter 3527  
5733. or 5747. of the Revised Code. The time limitations on 3528  
assessments under Chapter 5733. or 5747. of the Revised Code do 3529  
not apply to an assessment under this division, but the 3530  
commissioner shall make the assessment within one year after the 3531

date the authority certifies to the commissioner the amount to be 3532  
refunded. 3533

If the director of development determines that a taxpayer 3534  
that received a tax credit under this section has reduced the 3535  
number of employees agreed to under division (E)(5) of this 3536  
section by more than ten per cent, the director shall notify the 3537  
tax credit authority of the noncompliance. After receiving such 3538  
notice, and after providing the taxpayer an opportunity to explain 3539  
the noncompliance, the authority may amend the agreement to reduce 3540  
the percentage or term of the tax credit. The reduction in the 3541  
percentage or term shall take effect in the taxable year in which 3542  
the authority amends the agreement. 3543

(K) The director of development, after consultation with the 3544  
tax commissioner and in accordance with Chapter 119. of the 3545  
Revised Code, shall adopt rules necessary to implement this 3546  
section. The rules may provide for recipients of tax credits under 3547  
this section to be charged fees to cover administrative costs of 3548  
the tax credit program. At the time the director gives public 3549  
notice under division (A) of section 119.03 of the Revised Code of 3550  
the adoption of the rules, the director shall submit copies of the 3551  
proposed rules to the chairpersons of the standing committees on 3552  
economic development in the senate and the house of 3553  
representatives. 3554

(L) On or before the thirty-first day of March of each year, 3555  
the director of development shall submit a report to the governor, 3556  
the president of the senate, and the speaker of the house of 3557  
representatives on the tax credit program under this section. The 3558  
report shall include information on the number of agreements that 3559  
were entered into under this section during the preceding calendar 3560  
year, a description of the project that is the subject of each 3561  
such agreement, and an update on the status of projects under 3562  
agreements entered into before the preceding calendar year. 3563

(M)(1) A nonrefundable credit shall be allowed to an applicable corporation and its related members in an amount equal to the applicable difference. The credit is in addition to the credit granted to the corporation or related members under division (B) of this section. The credit is subject to divisions (B) to (E) and division (J) of this section.

(2) A person qualifying as an applicable corporation under this section for a tax year does not necessarily qualify as an applicable corporation for any other tax year. No person is entitled to the credit allowed under division (M) of this section for the tax year immediately following the taxable year during which the person fails to meet the requirements in divisions (A)(6)(a)(i) and (A)(6)(b) of this section. No person is entitled to the credit allowed under division (M) of this section for any tax year for which the person is not eligible for the credit provided under division (B) of this section.

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

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

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

(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.	3594 3595
(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;	3596 3597 3598 3599
(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;	3600 3601 3602 3603
(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;	3604 3605 3606 3607 3608
(7) Require each applicant to provide a marketing plan and management strategy for the project;	3609 3610
(8) Adopt rules in accordance with Chapter 119. of the Revised Code establishing all of the following:	3611 3612
(a) Forms and procedures by which eligible applicants may apply for assistance;	3613 3614
(b) Criteria for reviewing, evaluating, and ranking applications, and for approving applications that best serve the goals of the program;	3615 3616 3617
(c) Reporting requirements and monitoring procedures;	3618
(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;	3619 3620 3621
(e) Any other rules necessary to implement and administer the program created by section 122.24 of the Revised Code.	3622 3623

(B) The director may adopt rules in accordance with Chapter 3624  
119. of the Revised Code establishing requirements governing the 3625  
use of any industrial park site receiving assistance under section 3626  
122.24 of the Revised Code, such that a certain portion of the 3627  
site must be used for manufacturing, distribution, high 3628  
technology, research and development, or other businesses wherein 3629  
a majority of the product or service produced is exported out of 3630  
the state. 3631

(C) As a condition to receiving assistance under section 3632  
122.24 of the Revised Code, and except as provided in division (D) 3633  
of this section, an applicant must agree, for a period of five 3634  
years, not to permit the use of a site that is developed or 3635  
improved with such assistance to cause the relocation of jobs to 3636  
that site from elsewhere in Ohio. 3637

(D) A site developed or improved with assistance under 3638  
section 122.24 of the Revised Code may be the site of jobs 3639  
relocated from elsewhere in Ohio if the director of development 3640  
does all of the following: 3641

(1) Makes a written determination that the site from which 3642  
the jobs would be relocated is inadequate to meet market or 3643  
industry conditions, expansion plans, consolidation plans, or 3644  
other business considerations affecting the relocating employer; 3645

(2) Provides a copy of the determination required by division 3646  
(D)(1) of this section to the members of the general assembly 3647  
whose legislative districts include the site from which the jobs 3648  
would be relocated, ~~and to the joint legislative committee on tax~~ 3649  
~~incentives;~~ 3650

(3) Determines that the governing body of the area from which 3651  
the jobs would be relocated has been notified in writing by the 3652  
relocating company of the possible relocation. 3653

(E) The director of development must obtain the approval of 3654

the controlling board for any loan or loan guarantee provided 3655  
under sections 122.23 to 122.27 of the Revised Code. 3656

**Sec. 122.651.** (A) There is hereby created the clean Ohio 3657  
council consisting of the director of development or the 3658  
director's designee, the director of environmental protection or 3659  
the director's designee, the lieutenant governor or the lieutenant 3660  
governor's designee, the director of the Ohio public works 3661  
commission as a nonvoting, ex officio member, one member of the 3662  
majority party of the senate and one member of the minority party 3663  
of the senate to be appointed by the president of the senate, one 3664  
member of the majority party of the house of representatives and 3665  
one member of the minority party of the house of representatives 3666  
to be appointed by the speaker of the house of representatives, 3667  
and seven members to be appointed by the governor with the advice 3668  
and consent of the senate. Of the members appointed by the 3669  
governor, one shall represent the interests of counties, one shall 3670  
represent the interests of townships, one shall represent the 3671  
interests of municipal corporations, two shall represent the 3672  
interests of business and development, and two shall represent 3673  
statewide environmental advocacy organizations. The members 3674  
appointed by the governor shall reflect the demographic and 3675  
economic diversity of the population of the state. Additionally, 3676  
the governor's appointments shall represent all areas of the 3677  
state. All appointments to the council shall be made not later 3678  
than one hundred twenty days after July 26, 2001. 3679

(B) The members appointed by the president of the senate and 3680  
speaker of the house of representatives shall serve at the 3681  
pleasure of their appointing authorities. Of the initial members 3682  
appointed by the governor to the clean Ohio council, four shall be 3683  
appointed for two years and three shall be appointed for one year. 3684  
Thereafter, terms of office for members appointed by the governor 3685  
shall be for two years, with each term ending on the same day of 3686

the same month as did the term that it succeeds. Each of those 3687  
members shall hold office from the date of appointment until the 3688  
end of the term for which the member is appointed. 3689

Members may be reappointed. Vacancies shall be filled in the 3690  
same manner as provided for original appointments. Any member 3691  
appointed to fill a vacancy occurring prior to the expiration date 3692  
of the term for which the member was appointed shall hold office 3693  
for the remainder of that term. A member shall continue in office 3694  
after the expiration date of the member's term until the member's 3695  
successor takes office or until a period of sixty days has 3696  
elapsed, whichever occurs first. The governor may remove a member 3697  
appointed by the governor for misfeasance, nonfeasance, or 3698  
malfeasance in office. 3699

(C) The ~~director of development~~ governor shall appoint a 3700  
member of the clean Ohio council to serve as the chairperson of 3701  
the ~~clean Ohio~~ council. The director of development shall serve as 3702  
the vice-chairperson of the council unless appointed chairperson. 3703  
If the director is appointed chairperson, the council annually 3704  
shall select from among its members a vice-chairperson to serve 3705  
while the director is chairperson. The council annually shall 3706  
select from among its members ~~a vice-chairperson and~~ a secretary 3707  
to keep a record of its proceedings. A majority vote of a quorum 3708  
of the members of the council is necessary to take action on any 3709  
matter. The council may adopt bylaws governing its operation, 3710  
including bylaws that establish the frequency of meetings, 3711  
procedures for reviewing eligible projects under sections 122.65 3712  
to 122.658 of the Revised Code and policies and requirements 3713  
established under section 122.657 of the Revised Code, and other 3714  
necessary procedures. 3715

(D) Members of the clean Ohio council shall be deemed to be 3716  
public officials or officers only for the purposes of section 9.86 3717  
and Chapters 102. and 2921. of the Revised Code. Serving as a 3718

member of the clean Ohio council does not constitute holding a 3719  
public office or position of employment so as to constitute 3720  
grounds for removal of public officers or employees serving as 3721  
members of the council from their offices or positions of 3722  
employment. Members of the council shall file with the Ohio ethics 3723  
commission the disclosure statement described in division (A) of 3724  
section 102.02 of the Revised Code on the form prescribed by the 3725  
commission and be subject to divisions (C) and (D) of that 3726  
section. Members of the council shall serve without compensation 3727  
for attending council meetings, but shall receive their actual and 3728  
necessary traveling and other expenses incurred in the performance 3729  
of their official duties in accordance with the rules of the 3730  
office of budget and management. 3731

(E) Members appointed by the governor to represent the 3732  
interests of counties, townships, and municipal corporations do 3733  
not have a conflict of interest by virtue of their service in the 3734  
position. For the purposes of this division, "conflict of 3735  
interest" means the taking of any action as a member of the 3736  
council that affects a public agency the person serves as an 3737  
officer or employee. 3738

(F) The department of development shall provide office space 3739  
for the council. The council shall be assisted in its duties by 3740  
the staff of the department of development and the environmental 3741  
protection agency. 3742

(G) Sections 101.82 to 101.87 of the Revised Code do not 3743  
apply to the clean Ohio council. 3744

**Sec. 122.658.** (A) The clean Ohio revitalization fund is 3745  
hereby created in the state treasury. The fund shall consist of 3746  
moneys credited to it pursuant to section 151.40 of the Revised 3747  
Code. Moneys in the fund shall be used to make grants or loans for 3748  
projects that have been approved by the clean Ohio council in 3749



accordance with section 122.653 of the Revised Code, except that 3750  
the council annually shall devote twenty per cent of the net 3751  
proceeds of obligations deposited in the clean Ohio revitalization 3752  
fund for the purposes of section 122.656 of the Revised Code. 3753

Moneys in the clean Ohio revitalization fund may be used to 3754  
pay reasonable costs incurred by the department of development and 3755  
the environmental protection agency in administering sections 3756  
122.65 to 122.658 of the Revised Code. All investment earnings of 3757  
the fund shall be credited to the fund. ~~For two years after July~~ 3758  
~~26, 2001, investment~~ Investment earnings credited to the clean 3759  
Ohio revitalization fund may be used to pay costs incurred by the 3760  
department of development and the environmental protection agency 3761  
pursuant to sections 122.65 to 122.658 of the Revised Code. 3762

The department of development shall administer the clean Ohio 3763  
revitalization fund in accordance with this section, policies and 3764  
requirements established under section 122.657 of the Revised 3765  
Code, and the terms of agreements entered into by the council 3766  
under section 122.653 of the Revised Code. 3767

(B) Grants awarded and loans made under section 122.653 of 3768  
the Revised Code shall provide not more than seventy-five per cent 3769  
of the estimated total cost of a project. A grant or loan to any 3770  
one project shall not exceed three million dollars. An applicant 3771  
shall provide at least twenty-five per cent of the estimated total 3772  
cost of a project. The applicant's share may consist of one or a 3773  
combination of any of the following: 3774

(1) Payment of the cost of acquiring the property for the 3775  
purposes of sections 122.65 to 122.658 of the Revised Code; 3776

(2) Payment of the reasonable cost of an assessment at the 3777  
property; 3778

(3) The reasonable value, as determined by the council, of 3779  
labor and materials that will be contributed by the applicant in 3780

performing the cleanup or remediation; 3781

(4) Moneys received by the applicant in any form for use in 3782  
performing the cleanup or remediation; 3783

(5) Loans secured by the applicant for the purpose of the 3784  
cleanup or remediation of the brownfield. 3785

Costs that were incurred more than two years prior to the 3786  
submission of an application to the clean Ohio council for the 3787  
acquisition of property, assessments, and labor and materials 3788  
shall not be used as part of the applicant's matching share. 3789

(C) The department of development shall not make any payment 3790  
to an applicant from the clean Ohio revitalization fund to pay 3791  
costs of the applicant that were not included in an application 3792  
for a grant or loan under section 122.653 of the Revised Code or 3793  
that exceed the amount of the estimated total cost of the project 3794  
included in the application. If, upon completion of a project, the 3795  
costs of the project are less than the amounts included in the 3796  
application, the amounts included in the application less the 3797  
amounts of the actual costs of the project shall be credited to 3798  
the clean Ohio revitalization fund. However, the amounts credited 3799  
shall be equivalent in percentage to the percentage of the costs 3800  
of the project that were to be funded by the grant or loan from 3801  
the fund. 3802

(D) Grants awarded or loans made under section 122.653 of the 3803  
Revised Code from the clean Ohio revitalization fund shall be used 3804  
by an applicant only to pay the costs of the actual cleanup or 3805  
remediation of a brownfield and shall not be used by an applicant 3806  
to pay any administrative costs incurred by the applicant. Costs 3807  
related to the use of a certified professional for purposes of 3808  
section 122.654 of the Revised Code are not administrative costs 3809  
and may be paid with moneys from grants awarded or loans made 3810  
under section 122.653 of the Revised Code. 3811

(E) The portion of net proceeds of obligations devoted under 3812  
division (A) of this section for the purposes of section 122.656 3813  
of the Revised Code shall be used to make grants for assessments, 3814  
cleanup or remediation of brownfields, and public health projects 3815  
that have been approved by the director of development under that 3816  
section. The department of development shall administer section 3817  
122.656 of the Revised Code in accordance with this section, 3818  
policies and requirements established under section 122.657 of the 3819  
Revised Code, and the terms of agreements entered into by the 3820  
director under section 122.656 of the Revised Code. The director 3821  
shall not grant more than twenty-five million dollars for public 3822  
health projects under section 122.656 of the Revised Code. 3823

(F) Grants awarded under section 122.656 of the Revised Code 3824  
shall be used by an applicant only to pay the costs of actually 3825  
conducting an assessment, a cleanup or remediation of a 3826  
brownfield, or a public health project and shall not be used by an 3827  
applicant to pay any administrative costs incurred by the 3828  
applicant. Costs related to the use of a certified professional 3829  
for purposes of section 122.654 of the Revised Code are not 3830  
administrative costs and may be paid with moneys from grants 3831  
awarded under section 122.656 of the Revised Code. 3832

(G)(1) The clean Ohio revitalization revolving loan fund is 3833  
hereby created in the state treasury. Payments of principal and 3834  
interest on loans made from the clean Ohio revitalization fund 3835  
shall be credited to this revolving loan fund, as shall payments 3836  
of principal and interest on loans made from the revolving loan 3837  
fund itself. The revolving loan fund's investment earnings shall 3838  
be credited to it. 3839

(2) The clean Ohio revitalization revolving loan fund shall 3840  
be used to make loans for the same purposes and subject to the 3841  
same policies, requirements, criteria, and application procedures 3842  
as loans made from the clean Ohio revitalization fund. 3843

Sec. 122.87. As used in sections 122.87 to <del>122.89</del> <u>122.90</u> of	3844
the Revised Code:	3845
(A) "Surety company" means a company that is authorized by	3846
the department of insurance to issue bonds as surety.	3847
(B) "Minority business" means any of the following	3848
occupations:	3849
(1) Minority construction contractor;	3850
(2) Minority seller;	3851
(3) Minority service vendor.	3852
(C) "Minority construction contractor" means a person who is	3853
both a construction contractor and an owner of a minority business	3854
enterprise certified under division (B) of section 123.151 of the	3855
Revised Code.	3856
(D) "Minority seller" means a person who is both a seller of	3857
goods and an owner of a minority business enterprise listed on the	3858
special minority business enterprise bid notification list under	3859
division (B) of section 125.08 of the Revised Code.	3860
(E) "Minority service vendor" means a person who is both a	3861
vendor of services and an owner of a minority business enterprise	3862
listed on the special minority business enterprise bid	3863
notification list under division (B) of section 125.08 of the	3864
Revised Code.	3865
(F) "Minority business enterprise" has the meaning given in	3866
section 122.71 of the Revised Code.	3867
<u>(G) "EDGE business enterprise" means a sole proprietorship,</u>	3868
<u>association, partnership, corporation, limited liability</u>	3869
<u>corporation, or joint venture certified as a participant in the</u>	3870
<u>encouraging diversity, growth, and equity program by the director</u>	3871
<u>of administrative services under section 123.152 of the Revised</u>	3872

Code. 3873

**Sec. 122.88.** (A) There is hereby created in the state 3874  
treasury the minority business bonding fund, consisting of moneys 3875  
deposited or credited to it pursuant to section 169.05 of the 3876  
Revised Code; all grants, gifts, and contributions received 3877  
pursuant to division (B)(9) of section 122.74 of the Revised Code; 3878  
all moneys recovered following defaults; and any other moneys 3879  
obtained by the director of development for the purposes of 3880  
sections 122.87 to ~~122.89~~ 122.90 of the Revised Code. The fund 3881  
shall be administered by the director. Moneys in the fund shall be 3882  
held in trust for the purposes of sections 122.87 to ~~122.89~~ 122.90 3883  
of the Revised Code. 3884

(B) Any claims against the state arising from defaults shall 3885  
be payable from the minority business bonding program 3886  
administrative and loss reserve fund as provided in division (C) 3887  
of this section or from the minority business bonding fund. 3888  
Nothing in sections 122.87 to ~~122.89~~ 122.90 of the Revised Code 3889  
grants or pledges to any obligee or other person any state moneys 3890  
other than the moneys in the minority business bonding program 3891  
administrative and loss reserve fund or the minority business 3892  
bonding fund, or moneys available to the minority business bonding 3893  
fund upon request of the director in accordance with division (B) 3894  
of section 169.05 of the Revised Code. 3895

(C) There is hereby created in the state treasury the 3896  
minority business bonding program administrative and loss reserve 3897  
fund, consisting of all premiums charged and collected in 3898  
accordance with section 122.89 of the Revised Code and any 3899  
interest income earned from the moneys in the minority business 3900  
bonding fund. All expenses of the director and the minority 3901  
development financing advisory board in carrying out the purposes 3902  
of sections 122.87 to ~~122.89~~ 122.90 of the Revised Code shall be 3903

paid from the minority business bonding program administrative and 3904  
loss reserve fund. 3905

Any moneys to the credit of the minority business bonding 3906  
program administrative and loss reserve fund in excess of the 3907  
amount necessary to fund the appropriation authority for the 3908  
minority business bonding program administrative and loss reserve 3909  
fund shall be held as a loss reserve to pay claims arising from 3910  
defaults on surety bonds underwritten in accordance with section 3911  
122.89 of the Revised Code or guaranteed in accordance with 3912  
section 122.90 of the Revised Code. If the balance of funds in the 3913  
minority business bonding program administrative and loss reserve 3914  
fund is insufficient to pay a claim against the state arising from 3915  
default, then such claim shall be payable from the minority 3916  
business bonding fund. 3917

Sec. 122.90. (A) The director of development may guarantee 3918  
bonds executed by sureties for minority businesses and EDGE 3919  
business enterprises certified under section 123.152 of the 3920  
Revised Code as principals on contracts with the state, any 3921  
political subdivision or instrumentality, or any person as the 3922  
obligee. The director, as guarantor, may exercise all the rights 3923  
and powers of a company authorized by the department of insurance 3924  
to guarantee bonds under Chapter 3929. of the Revised Code but 3925  
otherwise is not subject to any laws related to a guaranty company 3926  
under Title XXXIX of the Revised Code nor to any rules of the 3927  
department of insurance. 3928

(B) The director shall adopt rules under Chapter 119. of the 3929  
Revised Code to establish procedures for the application for bond 3930  
guarantees and the review and approval of applications for bond 3931  
guarantees submitted by sureties that execute bonds eligible for 3932  
guarantees under division (A) of this section. 3933

(C) In accordance with rules adopted pursuant to this 3934

section, the director may guarantee up to ninety per cent of the 3935  
loss incurred and paid by sureties on bonds guaranteed under 3936  
division (A) of this section. 3937

(D) The penal sum amounts of all outstanding guarantees made 3938  
by the director under this section shall not exceed three times 3939  
the difference between the amount of moneys in the minority 3940  
business bonding fund and available to the fund under division (B) 3941  
of section 169.05 of the Revised Code and the amount of all 3942  
outstanding bonds issued by the director in accordance with 3943  
division (A) of section 122.89 of the Revised Code. 3944

**Sec. 123.01.** (A) The department of administrative services, 3945  
in addition to those powers enumerated in Chapters 124. and 125. 3946  
of the Revised Code, and as provided elsewhere by law, shall 3947  
exercise the following powers: 3948

(1) To prepare, or contract to be prepared, by licensed 3949  
engineers or architects, surveys, general and detailed plans, 3950  
specifications, bills of materials, and estimates of cost for any 3951  
projects, improvements, or public buildings to be constructed by 3952  
state agencies that may be authorized by legislative 3953  
appropriations or any other funds made available therefor, 3954  
provided that the construction of the projects, improvements, or 3955  
public buildings is a statutory duty of the department. This 3956  
section does not require the independent employment of an 3957  
architect or engineer as provided by section 153.01 of the Revised 3958  
Code in the cases to which that section applies nor affect or 3959  
alter the existing powers of the director of transportation. 3960

(2) To have general supervision over the construction of any 3961  
projects, improvements, or public buildings constructed for a 3962  
state agency and over the inspection of materials previous to 3963  
their incorporation into those projects, improvements, or 3964  
buildings; 3965

(3) To make contracts for and supervise the construction of 3966  
any projects and improvements or the construction and repair of 3967  
buildings under the control of a state agency, except contracts 3968  
for the repair of buildings under the management and control of 3969  
the departments of public safety, job and family services, mental 3970  
health, mental retardation and developmental disabilities, 3971  
rehabilitation and correction, and youth services, the bureau of 3972  
workers' compensation, the rehabilitation services commission, and 3973  
boards of trustees of educational and benevolent institutions. 3974  
These contracts shall be made and entered into by the directors of 3975  
public safety, job and family services, mental health, mental 3976  
retardation and developmental disabilities, rehabilitation and 3977  
correction, and youth services, the administrator of workers' 3978  
compensation, the rehabilitation services commission, and the 3979  
boards of trustees of such institutions, respectively. All such 3980  
contracts may be in whole or in part on unit price basis of 3981  
maximum estimated cost, with payment computed and made upon actual 3982  
quantities or units. 3983

(4) To prepare and suggest comprehensive plans for the 3984  
development of grounds and buildings under the control of a state 3985  
agency; 3986

(5) To acquire, by purchase, gift, devise, lease, or grant, 3987  
all real estate required by a state agency, in the exercise of 3988  
which power the department may exercise the power of eminent 3989  
domain, in the manner provided by sections 163.01 to 163.22 of the 3990  
Revised Code; 3991

(6) To make and provide all plans, specifications, and models 3992  
for the construction and perfection of all systems of sewerage, 3993  
drainage, and plumbing for the state in connection with buildings 3994  
and grounds under the control of a state agency; 3995

(7) To erect, supervise, and maintain all public monuments 3996



and memorials erected by the state, except where the supervision	3997
and maintenance is otherwise provided by law;	3998
(8) To procure, by lease, storage accommodations for a state	3999
agency;	4000
(9) To lease or grant easements or licenses for unproductive	4001
and unused lands or other property under the control of a state	4002
agency. Such leases, easements, or licenses shall be granted for a	4003
period not to exceed fifteen years and shall be executed for the	4004
state by the director of administrative services and the governor	4005
and shall be approved as to form by the attorney general, provided	4006
that leases, easements, or licenses may be granted to any county,	4007
township, municipal corporation, port authority, water or sewer	4008
district, school district, library district, health district, park	4009
district, soil and water conservation district, conservancy	4010
district, or other political subdivision or taxing district, or	4011
any agency of the United States government, for the exclusive use	4012
of that agency, political subdivision, or taxing district, without	4013
any right of sublease or assignment, for a period not to exceed	4014
fifteen years, and provided that the director shall grant leases,	4015
easements, or licenses of university land for periods not to	4016
exceed twenty-five years for purposes approved by the respective	4017
university's board of trustees wherein the uses are compatible	4018
with the uses and needs of the university and may grant leases of	4019
university land for periods not to exceed forty years for purposes	4020
approved by the respective university's board of trustees pursuant	4021
to section 123.77 of the Revised Code.	4022
(10) To lease office space in buildings for the use of a	4023
state agency;	4024
(11) To have general supervision and care of the storerooms,	4025
offices, and buildings leased for the use of a state agency;	4026
(12) To exercise general custodial care of all real property	4027

of the state; 4028

(13) To assign and group together state offices in any city 4029  
in the state and to establish, in cooperation with the state 4030  
agencies involved, rules governing space requirements for office 4031  
or storage use; 4032

(14) To lease for a period not to exceed forty years, 4033  
pursuant to a contract providing for the construction thereof 4034  
under a lease-purchase plan, buildings, structures, and other 4035  
improvements for any public purpose, and, in conjunction 4036  
therewith, to grant leases, easements, or licenses for lands under 4037  
the control of a state agency for a period not to exceed forty 4038  
years. The lease-purchase plan shall provide that at the end of 4039  
the lease period, the buildings, structures, and related 4040  
improvements, together with the land on which they are situated, 4041  
shall become the property of the state without cost. 4042

(a) Whenever any building, structure, or other improvement is 4043  
to be so leased by a state agency, the department shall retain 4044  
either basic plans, specifications, bills of materials, and 4045  
estimates of cost with sufficient detail to afford bidders all 4046  
needed information or, alternatively, all of the following plans, 4047  
details, bills of materials, and specifications: 4048

(i) Full and accurate plans suitable for the use of mechanics 4049  
and other builders in the improvement; 4050

(ii) Details to scale and full sized, so drawn and 4051  
represented as to be easily understood; 4052

(iii) Accurate bills showing the exact quantity of different 4053  
kinds of material necessary to the construction; 4054

(iv) Definite and complete specifications of the work to be 4055  
performed, together with such directions as will enable a 4056  
competent mechanic or other builder to carry them out and afford 4057  
bidders all needed information; 4058

(v) A full and accurate estimate of each item of expense and 4059  
of the aggregate cost thereof. 4060

(b) The department shall give public notice, in such 4061  
newspaper, in such form, and with such phraseology as the director 4062  
of administrative services prescribes, published once each week 4063  
for four consecutive weeks, of the time when and place where bids 4064  
will be received for entering into an agreement to lease to a 4065  
state agency a building, structure, or other improvement. The last 4066  
publication shall be at least eight days preceding the day for 4067  
opening the bids. The bids shall contain the terms upon which the 4068  
builder would propose to lease the building, structure, or other 4069  
improvement to the state agency. The form of the bid approved by 4070  
the department shall be used, and a bid is invalid and shall not 4071  
be considered unless that form is used without change, alteration, 4072  
or addition. Before submitting bids pursuant to this section, any 4073  
builder shall comply with Chapter 153. of the Revised Code. 4074

(c) On the day and at the place named for receiving bids for 4075  
entering into lease agreements with a state agency, the director 4076  
of administrative services shall open the bids and shall publicly 4077  
proceed immediately to tabulate the bids upon duplicate sheets. No 4078  
lease agreement shall be entered into until the bureau of workers' 4079  
compensation has certified that the person to be awarded the lease 4080  
agreement has complied with Chapter 4123. of the Revised Code, 4081  
until, if the builder submitting the lowest and best bid is a 4082  
foreign corporation, the secretary of state has certified that the 4083  
corporation is authorized to do business in this state, until, if 4084  
the builder submitting the lowest and best bid is a person 4085  
nonresident of this state, the person has filed with the secretary 4086  
of state a power of attorney designating the secretary of state as 4087  
its agent for the purpose of accepting service of summons in any 4088  
action brought under Chapter 4123. of the Revised Code, and until 4089  
the agreement is submitted to the attorney general and the 4090

attorney general's approval is certified thereon. Within thirty 4091  
days after the day on which the bids are received, the department 4092  
shall investigate the bids received and shall determine that the 4093  
bureau and the secretary of state have made the certifications 4094  
required by this section of the builder who has submitted the 4095  
lowest and best bid. Within ten days of the completion of the 4096  
investigation of the bids, the department shall award the lease 4097  
agreement to the builder who has submitted the lowest and best bid 4098  
and who has been certified by the bureau and secretary of state as 4099  
required by this section. If bidding for the lease agreement has 4100  
been conducted upon the basis of basic plans, specifications, 4101  
bills of materials, and estimates of costs, upon the award to the 4102  
builder the department, or the builder with the approval of the 4103  
department, shall appoint an architect or engineer licensed in 4104  
this state to prepare such further detailed plans, specifications, 4105  
and bills of materials as are required to construct the building, 4106  
structure, or improvement. The department shall adopt such rules 4107  
as are necessary to give effect to this section. The department 4108  
may reject any bid. Where there is reason to believe there is 4109  
collusion or combination among bidders, the bids of those 4110  
concerned therein shall be rejected. 4111

(15) To acquire by purchase, gift, devise, or grant and to 4112  
transfer, lease, or otherwise dispose of all real property 4113  
required to assist in the development of a conversion facility as 4114  
defined in section 5709.30 of the Revised Code; 4115

(16) To lease for a period not to exceed forty years, 4116  
notwithstanding any other division of this section, the 4117  
state-owned property located at 408-450 East Town Street, 4118  
Columbus, Ohio, formerly the state school for the deaf, to a 4119  
developer in accordance with this section. "Developer," as used in 4120  
this section, has the same meaning as in section 123.77 of the 4121  
Revised Code. 4122

Such a lease shall be for the purpose of development of the 4123  
land for use by senior citizens by constructing, altering, 4124  
renovating, repairing, expanding, and improving the site as it 4125  
existed on June 25, 1982. A developer desiring to lease the land 4126  
shall prepare for submission to the department a plan for 4127  
development. Plans shall include provisions for roads, sewers, 4128  
water lines, waste disposal, water supply, and similar matters to 4129  
meet the requirements of state and local laws. The plans shall 4130  
also include provision for protection of the property by insurance 4131  
or otherwise, and plans for financing the development, and shall 4132  
set forth details of the developer's financial responsibility. 4133

The department may employ, as employees or consultants, 4134  
persons needed to assist in reviewing the development plans. Those 4135  
persons may include attorneys, financial experts, engineers, and 4136  
other necessary experts. The department shall review the 4137  
development plans and may enter into a lease if it finds all of 4138  
the following: 4139

(a) The best interests of the state will be promoted by 4140  
entering into a lease with the developer; 4141

(b) The development plans are satisfactory; 4142

(c) The developer has established the developer's financial 4143  
responsibility and satisfactory plans for financing the 4144  
development. 4145

The lease shall contain a provision that construction or 4146  
renovation of the buildings, roads, structures, and other 4147  
necessary facilities shall begin within one year after the date of 4148  
the lease and shall proceed according to a schedule agreed to 4149  
between the department and the developer or the lease will be 4150  
terminated. The lease shall contain such conditions and 4151  
stipulations as the director considers necessary to preserve the 4152  
best interest of the state. Moneys received by the state pursuant 4153

to this lease shall be paid into the general revenue fund. The 4154  
lease shall provide that at the end of the lease period the 4155  
buildings, structures, and related improvements shall become the 4156  
property of the state without cost. 4157

(17) To lease to any person any tract of land owned by the 4158  
state and under the control of the department, or any part of such 4159  
a tract, for the purpose of drilling for or the pooling of oil or 4160  
gas. Such a lease shall be granted for a period not exceeding 4161  
forty years, with the full power to contract for, determine the 4162  
conditions governing, and specify the amount the state shall 4163  
receive for the purposes specified in the lease, and shall be 4164  
prepared as in other cases. 4165

(18) Biennially implement, by state agency location, a census 4166  
of agency employees assigned space; 4167

(19) Require each state agency to categorize periodically the 4168  
use of space allotted to the agency between office space, common 4169  
areas, storage space, and other uses and report its findings to 4170  
the department; 4171

(20) Create and update periodically a master space 4172  
utilization plan for all space allotted to state agencies. The 4173  
plan shall incorporate space utilization metrics. 4174

(21) Conduct periodically a cost-benefit analysis to 4175  
determine the effectiveness of state-owned buildings; 4176

(22) Assess periodically the alternatives associated with 4177  
consolidating the commercial leases for buildings located in 4178  
Columbus; 4179

(23) Commission a comprehensive space utilization and 4180  
capacity study in order to determine the feasibility of 4181  
consolidating existing commercially leased space used by state 4182  
agencies into a new state-owned facility. 4183

(B) This section and section 125.02 of the Revised Code shall 4184  
not interfere with any of the following: 4185

(1) The power of the adjutant general to purchase military 4186  
supplies, or with the custody of the adjutant general of property 4187  
leased, purchased, or constructed by the state and used for 4188  
military purposes, or with the functions of the adjutant general 4189  
as director of state armories; 4190

(2) The power of the director of transportation in acquiring 4191  
rights-of-way for the state highway system, or the leasing of 4192  
lands for division or resident district offices, or the leasing of 4193  
lands or buildings required in the maintenance operations of the 4194  
department of transportation, or the purchase of real property for 4195  
garage sites or division or resident district offices, or in 4196  
preparing plans and specifications for and constructing such 4197  
buildings as the director may require in the administration of the 4198  
department; 4199

(3) The power of the director of public safety and the 4200  
registrar of motor vehicles to purchase or lease real property and 4201  
buildings to be used solely as locations to which a deputy 4202  
registrar is assigned pursuant to division (B) of section 4507.011 4203  
of the Revised Code and from which the deputy registrar is to 4204  
conduct the deputy registrar's business, the power of the director 4205  
of public safety to purchase or lease real property and buildings 4206  
to be used as locations for division or district offices as 4207  
required in the maintenance of operations of the department of 4208  
public safety, and the power of the superintendent of the state 4209  
highway patrol in the purchase or leasing of real property and 4210  
buildings needed by the patrol, to negotiate the sale of real 4211  
property owned by the patrol, to rent or lease real property owned 4212  
or leased by the patrol, and to make or cause to be made repairs 4213  
to all property owned or under the control of the patrol; 4214

(4) The power of the division of liquor control in the 4215  
leasing or purchasing of retail outlets and warehouse facilities 4216  
for the use of the division; 4217

(5) The power of the director of development to enter into 4218  
leases of real property, buildings, and office space to be used 4219  
solely as locations for the state's foreign offices to carry out 4220  
the purposes of section 122.05 of the Revised Code. 4221

(C) Purchases for, and the custody and repair of, buildings 4222  
under the management and control of the capitol square review and 4223  
advisory board, the rehabilitation services commission, the bureau 4224  
of workers' compensation, or the departments of public safety, job 4225  
and family services, mental health, mental retardation and 4226  
developmental disabilities, and rehabilitation and correction, and 4227  
buildings of educational and benevolent institutions under the 4228  
management and control of boards of trustees, are not subject to 4229  
the control and jurisdiction of the department of administrative 4230  
services. 4231

(D) Any instrument by which real property is acquired 4232  
pursuant to this section shall identify the agency of the state 4233  
that has the use and benefit of the real property as specified in 4234  
section 5301.012 of the Revised Code. 4235

Sec. 123.152. (A) As used in this section, "EDGE business 4236  
enterprise" means a sole proprietorship, association, partnership, 4237  
corporation, limited liability corporation, or joint venture 4238  
certified as a participant in the encouraging diversity, growth, 4239  
and equity program by the director of administrative services 4240  
under this section of the Revised Code. 4241

(B) The director of administrative services shall establish a 4242  
business assistance program known as the encouraging diversity, 4243  
growth, and equity program and shall adopt rules in accordance 4244



with Chapter 119. of the Revised Code to administer the program 4245  
and that do all of the following: 4246

(1) Establish procedures by which a sole proprietorship, 4247  
association, partnership, corporation, limited liability 4248  
corporation, or joint venture may apply for certification as an 4249  
EDGE business enterprise; 4250

(2) Establish agency procurement goals for contracting with 4251  
EDGE business enterprises in the award of contracts under Chapters 4252  
123., 125., and 153. of the Revised Code based on the availability 4253  
of eligible program participants by region or geographic area, as 4254  
determined by the director, and by standard industrial code. 4255

(a) Goals established under division (B)(2) of this section 4256  
shall be based on a percentage level of participation and a 4257  
percentage of contractor availability. 4258

(b) Goals established under division (B)(2) of this section 4259  
shall be applied at the contract level, relative to an overall 4260  
dollar goal for each state agency, in accordance with the 4261  
following certification categories: construction, architecture, 4262  
and engineering; professional services; goods and services; and 4263  
information technology services. 4264

(3) Establish a system of certifying EDGE business 4265  
enterprises based on a requirement that the business owner or 4266  
owners show both social and economic disadvantage based on the 4267  
following, as determined to be sufficient by the director: 4268

(a) Relative wealth of the business seeking certification as 4269  
well as the personal wealth of the owner or owners of the 4270  
business; 4271

(b) Social disadvantage based on any of the following: 4272

(i) A rebuttable presumption when the business owner or 4273  
owners demonstrate membership in a racial minority group or show 4274

<u>personal disadvantage due to color, ethnic origin, gender,</u>	4275
<u>physical disability, long-term residence in an environment</u>	4276
<u>isolated from the mainstream of American society, location in an</u>	4277
<u>area of high unemployment;</u>	4278
<u>(ii) Some other demonstration of personal disadvantage not</u>	4279
<u>common to other small businesses;</u>	4280
<u>(iii) By business location in a qualified census tract.</u>	4281
<u>(c) Economic disadvantage based on economic and business size</u>	4282
<u>thresholds and eligibility criteria designed to stimulate economic</u>	4283
<u>development through contract awards to businesses located in</u>	4284
<u>qualified census tracts.</u>	4285
<u>(4) Establish standards to determine when an EDGE business</u>	4286
<u>enterprise no longer qualifies for EDGE business enterprise</u>	4287
<u>certification;</u>	4288
<u>(5) Develop a process for evaluating and adjusting goals</u>	4289
<u>established by this section to determine what adjustments are</u>	4290
<u>necessary to achieve participation goals established by the</u>	4291
<u>director;</u>	4292
<u>(6) Establish a point system to evaluate bid proposals to</u>	4293
<u>encourage EDGE business enterprises to participate in the</u>	4294
<u>procurement of professional design and information technology</u>	4295
<u>services;</u>	4296
<u>(7) Establish a system to track data and analyze each</u>	4297
<u>certification category established under division (B)(2)(b) of</u>	4298
<u>this section;</u>	4299
<u>(8) Establish a process to mediate complaints and to review</u>	4300
<u>EDGE business enterprise certification appeals;</u>	4301
<u>(9) Implement an outreach program to educate potential</u>	4302
<u>participants about the encouraging diversity, growth, and equity</u>	4303
<u>program;</u>	4304

(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes; 4305  
4306  
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(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; 4308  
4309  
4310

(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; 4311  
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(13) Establish a process for monitoring overall program compliance in which equal employment opportunity officers primarily are responsible for monitoring their respective agencies. 4315  
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(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. 4319  
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**Sec. 124.03.** The state personnel board of review shall exercise the following powers and perform the following duties: 4324  
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(A) Hear appeals, as provided by law, of employees in the classified state service from final decisions of appointing authorities or the director of administrative services relative to reduction in pay or position, job abolishments, layoff, suspension, discharge, assignment or reassignment to a new or different position classification, or refusal of the director, or anybody authorized to perform the director's functions, to reassign an employee to another classification or to reclassify the employee's position with or without a job audit under division 4326  
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(D) of section 124.14 of the Revised Code. As used in this 4335  
division, "discharge" includes disability separations. ~~The~~ 4336

The board may affirm, disaffirm, or modify the decisions of 4337  
the appointing authorities or the director, as the case may be, 4338  
and its decision is final. The board's decisions shall be 4339  
consistent with the applicable classification specifications. ~~The~~ 4340

The board shall not be deprived of jurisdiction to hear any 4341  
appeal due to the failure of an appointing authority to file its 4342  
decision with the board. Any final decision of an appointing 4343  
authority or of the director not filed in the manner provided in 4344  
this chapter shall be disaffirmed. ~~The~~ 4345

The board may place an exempt employee, as defined in section 4346  
124.152 of the Revised Code, into a bargaining unit 4347  
classification, if the board determines that the bargaining unit 4348  
classification is the proper classification for that employee. 4349  
Notwithstanding Chapter 4117. of the Revised Code or instruments 4350  
and contracts negotiated under it, such placements are at the 4351  
board's discretion. 4352

In any hearing before the board, including any hearing at 4353  
which a record is taken that may be the basis of an appeal to a 4354  
court, an employee may be represented by a person permitted to 4355  
practice before the board who is not an attorney at law ~~so~~ as long 4356  
as the person does not receive any compensation from the employee 4357  
for ~~such~~ the representation. 4358

(B) Hear appeals, as provided by law, of appointing 4359  
authorities from final decisions of the director relative to the 4360  
classification or reclassification of any position in the 4361  
classified state service under the jurisdiction of ~~such~~ that 4362  
appointing authority. The board may affirm, disaffirm, or modify 4363  
the decisions of the director, and its decision is final. The 4364  
board's decisions shall be consistent with the applicable 4365

classification specifications. 4366

(C) Exercise the authority provided by section 124.40 of the 4367  
Revised Code, for appointment, removal, and supervision of 4368  
municipal and civil service township civil service commissions; 4369

(D) Appoint a secretary, referees, examiners, and whatever 4370  
other employees are necessary in the exercise of its powers and 4371  
performance of its duties and functions. The board shall determine 4372  
appropriate education and experience requirements for its 4373  
secretary, referees, examiners, and other employees and shall 4374  
prescribe their duties. A referee or examiner does not need to 4375  
have been admitted to the practice of law. 4376

(E) Maintain a journal ~~which~~ that shall be open to public 4377  
inspection, in which it shall keep a record of all of its 4378  
proceedings and of the vote of each of its members upon every 4379  
action taken by it; 4380

(F) Adopt rules in accordance with Chapter 119. of the 4381  
Revised Code relating to the procedure of the board in 4382  
administering the laws ~~which~~ it has the authority or duty to 4383  
administer and for the purpose of invoking the jurisdiction of the 4384  
board in hearing appeals of appointing authorities and employees 4385  
in matters set forth in divisions (A) and (B) of this section; 4386

(G) Subpoena and require the attendance and testimony of 4387  
witnesses and the production of books, papers, public records, and 4388  
other documentary evidence pertinent to any matter ~~which~~ it has 4389  
authority to investigate, inquire into, or hear in the same manner 4390  
and to the same extent as provided by division (G) of section 4391  
124.09 of the Revised Code. All witness fees shall be paid in the 4392  
manner set forth in that division. 4393

(H) The board shall be funded by general revenue fund 4394  
appropriations. All moneys received by the board for copies of 4395  
documents, rule books, and transcriptions shall be paid into the 4396

state treasury to the credit of the transcript and other documents 4397  
 fund, which is hereby created to defray the cost of ~~furnishing or~~ 4398  
~~making available such copies, rule books, and transcriptions~~ 4399  
producing an administrative record. 4400

**Sec. 124.15.** (A) Board and commission members appointed prior 4401  
 to July 1, 1991, shall be paid a salary or wage in accordance with 4402  
 the following schedules of rates: 4403

Schedule B 4404

Pay Ranges and Step Values 4405

Range	Step 1	Step 2	Step 3	Step 4	
23 Hourly	5.72	5.91	6.10	6.31	4407
Annually	11897.60	12292.80	12688.00	13124.80	4408
	Step 5	Step 6			4409
Hourly	6.52	6.75			4410
Annually	13561.60	14040.00			4411
	Step 1	Step 2	Step 3	Step 4	4412
24 Hourly	6.00	6.20	6.41	6.63	4413
Annually	12480.00	12896.00	13332.80	13790.40	4414
	Step 5	Step 6			4415
Hourly	6.87	7.10			4416
Annually	14289.60	14768.00			4417
	Step 1	Step 2	Step 3	Step 4	4418
25 Hourly	6.31	6.52	6.75	6.99	4419
Annually	13124.80	13561.60	14040.00	14539.20	4420
	Step 5	Step 6			4421
Hourly	7.23	7.41			4422
Annually	15038.40	15412.80			4423
	Step 1	Step 2	Step 3	Step 4	4424
26 Hourly	6.63	6.87	7.10	7.32	4425
Annually	13790.40	14289.60	14768.00	15225.60	4426
	Step 5	Step 6			4427
Hourly	7.53	7.77			4428

	Annually	15662.40	16161.60			4429
		Step 1	Step 2	Step 3	Step 4	4430
27	Hourly	6.99	7.23	7.41	7.64	4431
	Annually	14534.20	15038.40	15412.80	15891.20	4432
		Step 5	Step 6	Step 7		4433
	Hourly	7.88	8.15	8.46		4434
	Annually	16390.40	16952.00	17596.80		4435
		Step 1	Step 2	Step 3	Step 4	4436
28	Hourly	7.41	7.64	7.88	8.15	4437
	Annually	15412.80	15891.20	16390.40	16952.00	4438
		Step 5	Step 6	Step 7		4439
	Hourly	8.46	8.79	9.15		4440
	Annually	17596.80	18283.20	19032.00		4441
		Step 1	Step 2	Step 3	Step 4	4442
29	Hourly	7.88	8.15	8.46	8.79	4443
	Annually	16390.40	16952.00	17596.80	18283.20	4444
		Step 5	Step 6	Step 7		4445
	Hourly	9.15	9.58	10.01		4446
	Annually	19032.00	19926.40	20820.80		4447
		Step 1	Step 2	Step 3	Step 4	4448
30	Hourly	8.46	8.79	9.15	9.58	4449
	Annually	17596.80	18283.20	19032.00	19926.40	4450
		Step 5	Step 6	Step 7		4451
	Hourly	10.01	10.46	10.99		4452
	Annually	20820.80	21756.80	22859.20		4453
		Step 1	Step 2	Step 3	Step 4	4454
31	Hourly	9.15	9.58	10.01	10.46	4455
	Annually	19032.00	19962.40	20820.80	21756.80	4456
		Step 5	Step 6	Step 7		4457
	Hourly	10.99	11.52	12.09		4458
	Annually	22859.20	23961.60	25147.20		4459
		Step 1	Step 2	Step 3	Step 4	4460
32	Hourly	10.01	10.46	10.99	11.52	4461

	Annually	20820.80	21756.80	22859.20	23961.60	4462
		Step 5	Step 6	Step 7	Step 8	4463
	Hourly	12.09	12.68	13.29	13.94	4464
	Annually	25147.20	26374.40	27643.20	28995.20	4465
		Step 1	Step 2	Step 3	Step 4	4466
33	Hourly	10.99	11.52	12.09	12.68	4467
	Annually	22859.20	23961.60	25147.20	26374.40	4468
		Step 5	Step 6	Step 7	Step 8	4469
	Hourly	13.29	13.94	14.63	15.35	4470
	Annually	27643.20	28995.20	30430.40	31928.00	4471
		Step 1	Step 2	Step 3	Step 4	4472
34	Hourly	12.09	12.68	13.29	13.94	4473
	Annually	25147.20	26374.40	27643.20	28995.20	4474
		Step 5	Step 6	Step 7	Step 8	4475
	Hourly	14.63	15.35	16.11	16.91	4476
	Annually	30430.40	31928.00	33508.80	35172.80	4477
		Step 1	Step 2	Step 3	Step 4	4478
35	Hourly	13.29	13.94	14.63	15.35	4479
	Annually	27643.20	28995.20	30430.40	31928.00	4480
		Step 5	Step 6	Step 7	Step 8	4481
	Hourly	16.11	16.91	17.73	18.62	4482
	Annually	33508.80	35172.80	36878.40	38729.60	4483
		Step 1	Step 2	Step 3	Step 4	4484
36	Hourly	14.63	15.35	16.11	16.91	4485
	Annually	30430.40	31928.00	33508.80	35172.80	4486
		Step 5	Step 6	Step 7	Step 8	4487
	Hourly	17.73	18.62	19.54	20.51	4488
	Annually	36878.40	38729.60	40643.20	42660.80	4489
	Schedule C					4490
		Pay Range and Values				4491
	Range	Minimum		Maximum		4492
41	Hourly	10.44		15.72		4493
	Annually	21715.20		32697.60		4494



42 Hourly	11.51	17.35	4495
Annually	23940.80	36088.00	4496
43 Hourly	12.68	19.12	4497
Annually	26374.40	39769.60	4498
44 Hourly	13.99	20.87	4499
Annually	29099.20	43409.60	4500
45 Hourly	15.44	22.80	4501
Annually	32115.20	47424.00	4502
46 Hourly	17.01	24.90	4503
Annually	35380.80	51792.00	4504
47 Hourly	18.75	27.18	4505
Annually	39000.00	56534.40	4506
48 Hourly	20.67	29.69	4507
Annually	42993.60	61755.20	4508
49 Hourly	22.80	32.06	4509
Annually	47424.00	66684.80	4510

(B) The pay schedule of all employees shall be on a biweekly basis, with amounts computed on an hourly basis. 4511  
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(C) Part-time employees shall be compensated on an hourly basis for time worked, at the rates shown in division (A) of this section or in section 124.152 of the Revised Code. 4513  
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(D) The salary and wage rates in division (A) of this section or in section 124.152 of the Revised Code represent base rates of compensation and may be augmented by the provisions of section 124.181 of the Revised Code. In those cases where lodging, meals, laundry, or other personal services are furnished an employee, the actual costs or fair market value of the personal services shall be paid by the employee in such amounts and manner as determined by the director of administrative services and approved by the director of budget and management, and those personal services shall not be considered as a part of the employee's compensation. An appointing authority, with the approval of the director of 4516  
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administrative services and the director of budget and management, 4527  
may establish payments to employees for uniforms, tools, 4528  
equipment, and other requirements of the department and payments 4529  
for the maintenance of them. 4530

The director of administrative services may review collective 4531  
bargaining agreements entered into under Chapter 4117. of the 4532  
Revised Code that cover state employees and determine whether 4533  
certain benefits or payments provided to state employees covered 4534  
by those agreements should also be provided to employees who are 4535  
exempt from collective bargaining coverage and are paid in 4536  
accordance with section 124.152 of the Revised Code or are listed 4537  
in division (B)(2) or (4) of section 124.14 of the Revised Code. 4538  
On completing the review, the director of administrative services, 4539  
with the approval of the director of budget and management, may 4540  
provide to some or all of these employees any payment or benefit, 4541  
except for salary, contained in such a collective bargaining 4542  
agreement even if it is similar to a payment or benefit already 4543  
provided by law to some or all of these employees. Any payment or 4544  
benefit so provided shall not exceed the highest level for that 4545  
payment or benefit specified in such a collective bargaining 4546  
agreement. The director of administrative services shall not 4547  
provide, and the director of budget and management shall not 4548  
approve, any payment or benefit to such an employee under this 4549  
division unless the payment or benefit is provided pursuant to a 4550  
collective bargaining agreement to a state employee who is in a 4551  
position with similar duties as, is supervised by, or is employed 4552  
by the same appointing authority as, the employee to whom the 4553  
benefit or payment is to be provided. 4554

As used in this division, "payment or benefit already 4555  
provided by law" includes, but is not limited to, bereavement, 4556  
personal, vacation, administrative, and sick leave, disability 4557  
benefits, holiday pay, and pay supplements provided under the 4558

Revised Code, but does not include wages or salary. 4559

(E) New employees paid under schedule B of division (A) of 4560  
this section or under schedule E-1 of section 124.152 of the 4561  
Revised Code shall be employed at the minimum rate established for 4562  
the range unless otherwise provided. Employees with qualifications 4563  
that are beyond the minimum normally required for the position and 4564  
that are determined by the director to be exceptional may be 4565  
employed in, or may be transferred or promoted to, a position at 4566  
an advanced step of the range. Further, in time of a serious labor 4567  
market condition when it is relatively impossible to recruit 4568  
employees at the minimum rate for a particular classification, the 4569  
entrance rate may be set at an advanced step in the range by the 4570  
director of administrative services. This rate may be limited to 4571  
geographical regions of the state. Appointments made to an 4572  
advanced step under the provision regarding exceptional 4573  
qualifications shall not affect the step assignment of employees 4574  
already serving. However, anytime the hiring rate of an entire 4575  
classification is advanced to a higher step, all incumbents of 4576  
that classification being paid at a step lower than that being 4577  
used for hiring, shall be advanced beginning at the start of the 4578  
first pay period thereafter to the new hiring rate, and any time 4579  
accrued at the lower step will be used to calculate advancement to 4580  
a succeeding step. If the hiring rate of a classification is 4581  
increased for only a geographical region of the state, only 4582  
incumbents who work in that geographical region shall be advanced 4583  
to a higher step. When an employee in the unclassified service 4584  
changes from one state position to another or is appointed to a 4585  
position in the classified service, or if an employee in the 4586  
classified service is appointed to a position in the unclassified 4587  
service, the employee's salary or wage in the new position shall 4588  
be determined in the same manner as if the employee were an 4589  
employee in the classified service. When an employee in the 4590  
unclassified service who is not eligible for step increases is 4591

appointed to a classification in the classified service under 4592  
which step increases are provided, future step increases shall be 4593  
based on the date on which the employee last received a pay 4594  
increase. If the employee has not received an increase during the 4595  
previous year, the date of the appointment to the classified 4596  
service shall be used to determine the employee's annual step 4597  
advancement eligibility date. In reassigning any employee to a 4598  
classification resulting in a pay range increase or to a new pay 4599  
range as a result of a promotion, an increase pay range 4600  
adjustment, or other classification change resulting in a pay 4601  
range increase, the director shall assign such employee to the 4602  
step in the new pay range that will provide an increase of 4603  
approximately four per cent if the new pay range can accommodate 4604  
the increase. When an employee is being assigned to a 4605  
classification or new pay range as the result of a class plan 4606  
change, if the employee has completed a probationary period, the 4607  
employee shall be placed in a step no lower than step two of the 4608  
new pay range. If the employee has not completed a probationary 4609  
period, the employee may be placed in step one of the new pay 4610  
range. Such new salary or wage shall become effective on such date 4611  
as the director determines. 4612

(F) If employment conditions and the urgency of the work 4613  
require such action, the director of administrative services may, 4614  
upon the application of a department head, authorize payment at 4615  
any rate established within the range for the class of work, for 4616  
work of a casual or intermittent nature or on a project basis. 4617  
Payment at such rates shall not be made to the same individual for 4618  
more than three calendar months in any one calendar year. Any such 4619  
action shall be subject to the approval of the director of budget 4620  
and management as to the availability of funds. This section and 4621  
sections 124.14 and 124.152 of the Revised Code do not repeal any 4622  
authority of any department or public official to contract with or 4623  
fix the compensation of professional persons who may be employed 4624

temporarily for work of a casual nature or for work on a project 4625  
basis. 4626

(G) ~~Each~~ (1) Except as provided in division (G)(2) of this 4627  
section, each state employee paid under schedule B of this section 4628  
or under schedule E-1 of section 124.152 of the Revised Code shall 4629  
be eligible for advancement to succeeding steps in the range for 4630  
the employee's class according to the schedule established in this 4631  
division. Beginning on the first day of the pay period within 4632  
which the employee completes the prescribed probationary period in 4633  
the employee's classification with the state, each employee shall 4634  
receive an automatic salary adjustment equivalent to the next 4635  
higher step within the pay range for the employee's class or 4636  
grade. 4637

Each employee paid under schedule E-1 of section 124.152 of 4638  
the Revised Code shall be eligible to advance to the next higher 4639  
step until the employee reaches step six, if the employee has 4640  
maintained satisfactory performance in accordance with criteria 4641  
established by the employee's appointing authority. Those step 4642  
~~increases~~ advancements shall not occur more frequently than once 4643  
in any twelve-month period. An employee only may advance to step 4644  
seven upon performing at an exemplary level as determined in the 4645  
employee's performance evaluation. An employee's advancement to 4646  
step seven is at the discretion of the employee's appointing 4647  
authority. An employee may not appeal the denial of advancement to 4648  
step seven to the state personnel board of review. 4649

When an employee is promoted or reassigned to a higher pay 4650  
range, the employee's step indicator shall return to "0" or be 4651  
adjusted to account for a probationary period, as appropriate. 4652  
Step advancement shall not be affected by demotion. A promoted 4653  
employee shall advance to the next higher step of the pay range on 4654  
the first day of the pay period in which the required probationary 4655  
period is completed. Step advancement shall become effective at 4656

the beginning of the pay period within which the employee attains 4657  
the necessary length of service. Time spent on authorized leave of 4658  
absence shall be counted for this purpose. 4659

If determined to be in the best interest of the state 4660  
service, the director of administrative services may, either 4661  
statewide or in selected agencies, adjust the dates on which 4662  
annual step ~~increases~~ advancements are received by employees paid 4663  
under schedule E-1 of section 124.152 of the Revised Code. 4664

(2)(a)(i) Except as provided in division (G)(2)(a)(ii) of 4665  
this section, there shall be a moratorium on step advancements 4666  
under division (G)(1) of this section from the pay period 4667  
beginning June 29, 2003, through the pay period ending June 25, 4668  
2005. Step advancements shall resume with the pay period beginning 4669  
June 26, 2005. Upon the resumption of step advancements, there 4670  
shall be no retroactive step advancements for the period the 4671  
moratorium was in effect. The moratorium shall not affect an 4672  
employee's performance evaluation schedule. 4673

(ii) During the moratorium under division (G)(2)(a)(i) of 4674  
this section, an employee who is hired or promoted and serves a 4675  
probationary period in the employee's new position shall advance 4676  
to the next step in the employee's pay range upon successful 4677  
completion of the employee's probationary period. Thereafter, the 4678  
employee is subject to the moratorium. 4679

(b) The moratorium under division (G)(2)(a)(i) of this 4680  
section shall apply to the employees of the secretary of state, 4681  
the auditor of state, the treasurer of state, the attorney 4682  
general, the supreme court, and state boards and commissions, who 4683  
are subject to this section unless the secretary of state, auditor 4684  
of state, treasurer of state, attorney general, supreme court, 4685  
board, or commission decides to exempt its employees from the 4686  
moratorium and so notifies the director of administrative services 4687  
in writing on or before July 1, 2003. 4688

(H) Employees in appointive managerial or professional 4689  
positions paid under salary schedule C of this section or under 4690  
salary schedule E-2 of section 124.152 of the Revised Code may be 4691  
appointed at any rate within the appropriate pay range. This rate 4692  
of pay may be adjusted higher or lower within the respective pay 4693  
range at any time the appointing authority so desires as long as 4694  
the adjustment is based on the employee's ability to successfully 4695  
administer those duties assigned to the employee. Salary 4696  
adjustments shall not be made more frequently than once in any 4697  
six-month period under this provision to incumbents holding the 4698  
same position and classification. 4699

(I) When an employee is assigned to duty outside this state, 4700  
the employee may be compensated, upon request of the department 4701  
head and with the approval of the director of administrative 4702  
services, at a rate not to exceed fifty per cent in excess of the 4703  
employee's current base rate for the period of time spent on that 4704  
duty. 4705

(J) Unless compensation for members of a board or commission 4706  
is otherwise specifically provided by law, the director of 4707  
administrative services shall establish the rate and method of 4708  
payment for members of boards and commissions pursuant to the pay 4709  
schedules listed in section 124.152 of the Revised Code. 4710

(K) Regular full-time employees in positions assigned to 4711  
classes within the instruction and education administration series 4712  
under the rules of the director of administrative services, except 4713  
certificated employees on the instructional staff of the state 4714  
school for the blind or the state school for the deaf, whose 4715  
positions are scheduled to work on the basis of an academic year 4716  
rather than a full calendar year, shall be paid according to the 4717  
pay range assigned by such rules but only during those pay periods 4718  
included in the academic year of the school where the employee is 4719  
located. 4720

(1) Part-time or substitute teachers or those whose period of employment is other than the full academic year shall be compensated for the actual time worked at the rate established by this section.

(2) Employees governed by this division are exempt from sections 124.13 and 124.19 of the Revised Code.

(3) Length of service for the purpose of determining eligibility for step ~~increases~~ advancements as provided by division (G) of this section and for the purpose of determining eligibility for longevity pay supplements as provided by division ~~(F)~~(E) of section 124.181 of the Revised Code shall be computed on the basis of one full year of service for the completion of each academic year.

(L) The superintendent of the state school for the deaf and the superintendent of the state school for the blind shall, subject to the approval of the superintendent of public instruction, carry out both of the following:

(1) Annually, between the first day of April and the last day of June, establish for the ensuing fiscal year a schedule of hourly rates for the compensation of each certificated employee on the instructional staff of that superintendent's respective school constructed as follows:

(a) Determine for each level of training, experience, and other professional qualification for which an hourly rate is set forth in the current schedule, the per cent that rate is of the rate set forth in such schedule for a teacher with a bachelor's degree and no experience. If there is more than one such rate for such a teacher, the lowest rate shall be used to make the computation.

(b) Determine which six city, local, and exempted village school districts with territory in Franklin county have in effect



on, or have adopted by, the first day of April for the school year 4752  
that begins on the ensuing first day of July, teacher salary 4753  
schedules with the highest minimum salaries for a teacher with a 4754  
bachelor's degree and no experience; 4755

(c) Divide the sum of such six highest minimum salaries by 4756  
ten thousand five hundred sixty; 4757

(d) Multiply each per cent determined in division (L)(1)(a) 4758  
of this section by the quotient obtained in division (L)(1)(c) of 4759  
this section; 4760

(e) One hundred five per cent of each product thus obtained 4761  
shall be the hourly rate for the corresponding level of training, 4762  
experience, or other professional qualification in the schedule 4763  
for the ensuing fiscal year. 4764

(2) Annually, assign each certificated employee on the 4765  
instructional staff of the superintendent's respective school to 4766  
an hourly rate on the schedule that is commensurate with the 4767  
employee's training, experience, and other professional 4768  
qualifications. 4769

If an employee is employed on the basis of an academic year, 4770  
the employee's annual salary shall be calculated by multiplying 4771  
the employee's assigned hourly rate times one thousand seven 4772  
hundred sixty. If an employee is not employed on the basis of an 4773  
academic year, the employee's annual salary shall be calculated in 4774  
accordance with the following formula: 4775

(a) Multiply the number of days the employee is required to 4776  
work pursuant to the employee's contract by eight; 4777

(b) Multiply the product of division (L)(2)(a) of this 4778  
section by the employee's assigned hourly rate. 4779

Each employee shall be paid an annual salary in biweekly 4780  
installments. The amount of each installment shall be calculated 4781

by dividing the employee's annual salary by the number of biweekly installments to be paid during the year. 4782  
4783

Sections 124.13 and 124.19 of the Revised Code do not apply to an employee who is paid under this division. 4784  
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As used in this division, "academic year" means the number of days in each school year that the schools are required to be open for instruction with pupils in attendance. Upon completing an academic year, an employee paid under this division shall be deemed to have completed one year of service. An employee paid under this division is eligible to receive a pay supplement under division (L)(1), (2), or (3) of section 124.181 of the Revised Code for which the employee qualifies, but is not eligible to receive a pay supplement under division (L)(4) or (5) of that section. An employee paid under this division is eligible to receive a pay supplement under division (L)(6) of section 124.181 of the Revised Code for which the employee qualifies, except that the supplement is not limited to a maximum of five per cent of the employee's regular base salary in a calendar year. 4786  
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(M) Division (A) of this section does not apply to "exempt employees," as defined in section 124.152 of the Revised Code, who are paid under that section. 4800  
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Notwithstanding any other provisions of this chapter, when an employee transfers between bargaining units or transfers out of or into a bargaining unit, the director shall establish the employee's compensation and adjust the maximum leave accrual schedule as the director deems equitable. 4803  
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~~Sec. 124.152. (A) Beginning on the first day of the pay period that includes July 1, 2000, each exempt employee shall be paid a salary or wage in accordance with the following schedule of rates:~~ 4808  
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4810  
4811

<del>Schedule E-1</del>		<del>Pay Ranges and Step Values</del>							4812
		<del>Step</del>	<del>Step</del>	<del>Step</del>	<del>Step</del>	<del>Step</del>	<del>Step</del>	<del>Step</del>	4813
Range		<del>1</del>	<del>2</del>	<del>3</del>	<del>4</del>	<del>5</del>	<del>6</del>	<del>7</del>	4814
		<del>1</del>	<del>2</del>	<del>3</del>	<del>4</del>	<del>5</del>	<del>6</del>	<del>7</del>	4815
1	Hourly	<del>8.15</del>	<del>8.51</del>	<del>8.88</del>	<del>9.27</del>				4816
	Annually	<del>16952</del>	<del>17701</del>	<del>18470</del>	<del>19282</del>				4817
2	Hourly	<del>9.88</del>	<del>10.30</del>	<del>10.75</del>	<del>11.23</del>				4818
	Annually	<del>20550</del>	<del>21424</del>	<del>22360</del>	<del>23358</del>				4819
3	Hourly	<del>10.35</del>	<del>10.82</del>	<del>11.29</del>	<del>11.79</del>				4820
	Annually	<del>21528</del>	<del>22506</del>	<del>23483</del>	<del>24523</del>				4821
4	Hourly	<del>10.87</del>	<del>11.36</del>	<del>11.90</del>	<del>12.43</del>				4822
	Annually	<del>22610</del>	<del>23629</del>	<del>24752</del>	<del>25854</del>				4823
5	Hourly	<del>11.41</del>	<del>11.93</del>	<del>12.43</del>	<del>12.98</del>				4824
	Annually	<del>23733</del>	<del>24814</del>	<del>25854</del>	<del>26998</del>				4825
6	Hourly	<del>12.02</del>	<del>12.51</del>	<del>13.07</del>	<del>13.60</del>				4826
	Annually	<del>25002</del>	<del>26021</del>	<del>27186</del>	<del>28288</del>				4827
7	Hourly	<del>12.76</del>	<del>13.25</del>	<del>13.78</del>	<del>14.26</del>	<del>14.81</del>			4828
	Annually	<del>26541</del>	<del>27560</del>	<del>28662</del>	<del>29661</del>	<del>30805</del>			4829
8	Hourly	<del>13.50</del>	<del>14.09</del>	<del>14.71</del>	<del>15.35</del>	<del>16.01</del>			4830
	Annually	<del>28080</del>	<del>29307</del>	<del>30597</del>	<del>31928</del>	<del>33301</del>			4831
9	Hourly	<del>14.40</del>	<del>15.14</del>	<del>15.89</del>	<del>16.68</del>	<del>17.53</del>			4832
	Annually	<del>29952</del>	<del>31491</del>	<del>33051</del>	<del>34694</del>	<del>36462</del>			4833
10	Hourly	<del>15.54</del>	<del>16.38</del>	<del>17.27</del>	<del>18.25</del>	<del>19.23</del>			4834
	Annually	<del>32323</del>	<del>34070</del>	<del>35922</del>	<del>37960</del>	<del>39998</del>			4835
11	Hourly	<del>16.91</del>	<del>17.90</del>	<del>18.94</del>	<del>20.00</del>	<del>21.14</del>			4836
	Annually	<del>35173</del>	<del>37232</del>	<del>39395</del>	<del>41600</del>	<del>43971</del>			4837
12	Hourly	<del>18.66</del>	<del>19.70</del>	<del>20.76</del>	<del>21.91</del>	<del>23.13</del>	<del>24.40</del>	<del>25.74</del>	4838
	Annually	<del>38813</del>	<del>40976</del>	<del>43181</del>	<del>45573</del>	<del>48110</del>	<del>50752</del>	<del>53539</del>	4839
13	Hourly	<del>20.56</del>	<del>21.69</del>	<del>22.88</del>	<del>24.11</del>	<del>25.46</del>	<del>26.85</del>	<del>28.33</del>	4840
	Annually	<del>42765</del>	<del>45115</del>	<del>47590</del>	<del>50149</del>	<del>52957</del>	<del>55848</del>	<del>58926</del>	4841
14	Hourly	<del>22.62</del>	<del>23.89</del>	<del>25.18</del>	<del>26.56</del>	<del>28.06</del>	<del>29.61</del>	<del>31.24</del>	4842
	Annually	<del>47050</del>	<del>49691</del>	<del>52374</del>	<del>55245</del>	<del>58365</del>	<del>61589</del>	<del>64979</del>	4843
15	Hourly	<del>24.84</del>	<del>26.23</del>	<del>27.72</del>	<del>29.25</del>	<del>30.86</del>	<del>32.57</del>	<del>34.36</del>	4844

	Annually	51667	54558	57658	60840	64189	67746	71469	4845
16	Hourly	27.39	28.91	30.51	32.21	33.99	35.92	37.90	4846
	Annually	56971	60133	63461	66997	70699	74714	78832	4847
17	Hourly	30.18	31.85	33.63	35.49	37.47	39.56	41.74	4848
	Annually	62774	66248	69950	73819	77938	82285	86819	4849
18	Hourly	33.26	35.10	37.07	39.12	41.28	43.59	45.99	4850
	Annually	69181	73008	77106	81370	85862	90667	95659	4851
Schedule E-2									4852
	Range			Minimum				Maximum	4853
41	Hourly			16.23				30.15	4854
	Annually			33758				62712	4855
42	Hourly			17.89				33.31	4856
	Annually			37211				69285	4857
43	Hourly			19.70				36.69	4858
	Annually			40976				76315	4859
44	Hourly			21.73				40.07	4860
	Annually			45198				83346	4861
45	Hourly			24.01				43.75	4862
	Annually			49941				91000	4863
46	Hourly			26.43				47.81	4864
	Annually			54974				99445	4865
47	Hourly			29.14				52.17	4866
	Annually			60611				108514	4867
48	Hourly			32.14				56.94	4868
	Annually			66851				118435	4869
49	Hourly			35.44				61.48	4870
	Annually			73715				127878	4871
<del>(B) Beginning on the first day of the pay period that</del>									4872
<del>includes July 1, 2001, each exempt employee shall be paid a salary</del>									4873
<del>or wage in accordance with the following schedule of rates:</del>									4874
Schedule E-1									4875
Pay Ranges and Step Values									4876

		Step	Step	Step	Step	Step	Step	Step	
	Range	1	2	3	4	5	6	7	
									4877
									4878
1	Hourly	8.44	8.81	9.19	9.59				4879
	Annually	17555	18325	19115	19947				4880
2	Hourly	10.23	10.66	11.13	11.62				4881
	Annually	21278	22173	23150	24170				4882
3	Hourly	10.71	11.20	11.69	12.20				4883
	Annually	22277	23296	24315	25376				4884
4	Hourly	11.25	11.76	12.32	12.87				4885
	Annually	23400	24461	25626	26770				4886
5	Hourly	11.81	12.35	12.87	13.43				4887
	Annually	24565	25688	26770	27934				4888
6	Hourly	12.44	12.95	13.53	14.08				4889
	Annually	25875	26936	28142	29286				4890
7	Hourly	13.21	13.71	14.26	14.76	15.33			4891
	Annually	27477	28517	29661	30701	31886			4892
8	Hourly	13.97	14.58	15.22	15.89	16.57			4893
	Annually	29058	30326	31658	33051	34466			4894
9	Hourly	14.90	15.67	16.45	17.26	18.14			4895
	Annually	30992	32594	34216	35901	37731			4896
10	Hourly	16.08	16.95	17.87	18.89	19.90			4897
	Annually	33446	35256	37170	39291	41392			4898
11	Hourly	17.50	18.53	19.60	20.70	21.88			4899
	Annually	36400	38542	40768	43056	45510			4900
12	Hourly	19.31	20.39	21.49	22.68	23.94	25.25	26.64	4901
	Annually	40165	42411	44699	47174	49795	52520	55411	4902
13	Hourly	21.28	22.45	23.68	24.95	26.35	27.79	29.32	4903
	Annually	44262	46696	49254	51896	54808	57803	60986	4904
14	Hourly	23.41	24.73	26.06	27.49	29.04	30.65	32.33	4905
	Annually	48693	51438	54205	57179	60403	63752	67246	4906
15	Hourly	25.71	27.15	28.69	30.27	31.94	33.71	35.56	4907
	Annually	53477	56472	59675	62962	66435	70117	73965	4908
16	Hourly	28.35	29.92	31.58	33.34	35.18	37.18	39.23	4909

	Annually	58968	62234	65686	69347	73174	77334	81598	4910
17	Hourly	31.24	32.96	34.81	36.73	38.78	40.94	43.20	4911
	Annually	64979	68557	72405	76398	80662	85155	89856	4912
18	Hourly	34.42	36.33	38.37	40.49	42.72	45.12	47.60	4913
	Annually	71594	75566	79810	84219	88858	93850	99008	4914

~~Schedule E-2~~ 4915

	Range		Minimum		Maximum				4916
41	Hourly		16.23		31.21				4917
	Annually		33758		64917				4918
42	Hourly		17.89		34.48				4919
	Annually		37211		71718				4920
43	Hourly		19.70		37.97				4921
	Annually		40976		78978				4922
44	Hourly		21.73		41.47				4923
	Annually		45198		86258				4924
45	Hourly		24.01		45.28				4925
	Annually		49941		94182				4926
46	Hourly		26.43		49.48				4927
	Annually		54974		102918				4928
47	Hourly		29.14		54.00				4929
	Annually		60611		112320				4930
48	Hourly		32.14		58.93				4931
	Annually		66851		122574				4932
49	Hourly		35.44		63.63				4933
	Annually		73715		132350				4934

(C) Beginning on the first day of the pay period that 4935  
includes July 1, 2002, each exempt employee shall be paid a salary 4936  
or wage in accordance with the following schedule of rates: 4937

Schedule E-1 4938

Pay Ranges and Step Values 4939

	Step	Step	Step	Step	Step	Step	Step		4940
Range	1	2	3	4	5	6	7		4941

1	Hourly	8.78	9.16	9.56	9.97				4942
	Annually	18262	19053	19885	20738				4943
2	Hourly	10.64	11.09	11.58	12.08				4944
	Annually	22131	23067	24086	25126				4945
3	Hourly	11.14	11.65	12.16	12.69				4946
	Annually	23171	24232	25293	26395				4947
4	Hourly	11.70	12.23	12.81	13.38				4948
	Annually	24336	25438	26645	27830				4949
5	Hourly	12.28	12.84	13.38	13.97				4950
	Annually	25542	26707	27830	29058				4951
6	Hourly	12.94	13.47	14.07	14.64				4952
	Annually	26915	28018	29266	30451				4953
7	Hourly	13.74	14.26	14.83	15.35	15.94			4954
	Annually	28579	29661	30846	31928	33155			4955
8	Hourly	14.53	15.16	15.83	16.53	17.23			4956
	Annually	30222	31533	32926	34382	35838			4957
9	Hourly	15.50	16.30	17.11	17.95	18.87			4958
	Annually	32240	33904	35589	37336	39250			4959
10	Hourly	16.72	17.63	18.58	19.65	20.70			4960
	Annually	34778	36670	38646	40872	43056			4961
11	Hourly	18.20	19.27	20.38	21.53	22.76			4962
	Annually	37856	40082	42390	44782	47341			4963
12	Hourly	20.08	21.21	22.35	23.59	24.90	26.26	27.71	4964
	Annually	41766	44117	46488	49067	51792	54621	57637	4965
13	Hourly	22.13	23.35	24.63	25.95	27.40	28.90	30.49	4966
	Annually	46030	48568	51230	53976	56992	60112	63419	4967
14	Hourly	24.35	25.72	27.10	28.59	30.20	31.88	33.62	4968
	Annually	50648	53498	56368	59467	62816	66310	69930	4969
15	Hourly	26.74	28.24	29.84	31.48	33.22	35.06	36.98	4970
	Annually	55619	58739	62067	65478	69098	72925	76918	4971
16	Hourly	29.48	31.12	32.84	34.67	36.59	38.67	40.80	4972
	Annually	61318	64730	68307	72114	76107	80434	84864	4973
17	Hourly	32.49	34.28	36.20	38.20	40.33	42.58	44.93	4974

	Annually	67579	71302	75296	79456	83886	88566	93454	4975
18	Hourly	35.80	37.78	39.90	42.11	44.43	46.92	49.50	4976
	Annually	74464	78582	82992	87589	92414	97594	102960	4977
Schedule E-2									4978
	Range			Minimum				Maximum	4979
41	Hourly			16.23				32.46	4980
	Annually			33758				67517	4981
42	Hourly			17.89				35.86	4982
	Annually			37211				74589	4983
43	Hourly			19.70				39.49	4984
	Annually			40976				82139	4985
44	Hourly			21.73				43.13	4986
	Annually			45198				89710	4987
45	Hourly			24.01				47.09	4988
	Annually			49941				97947	4989
46	Hourly			26.43				51.46	4990
	Annually			54974				107037	4991
47	Hourly			29.14				56.16	4992
	Annually			60611				116813	4993
48	Hourly			32.14				61.29	4994
	Annually			66851				127483	4995
49	Hourly			35.44				66.18	4996
	Annually			73715				137654	4997

(D)(B) Beginning on the first day of the pay period that 4998  
includes July 1, 2005, each exempt employee shall be paid a salary 4999  
or wage in accordance with the following schedule of rates: 5000

Schedule E-1 5001

		<u>Pay Ranges and Step Values</u>							5002
		<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	5003
	<u>Range</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	5004
1	<u>Hourly</u>	<u>9.13</u>	<u>9.53</u>	<u>9.94</u>	<u>10.37</u>				5005
	<u>Annually</u>	<u>18990</u>	<u>19822</u>	<u>20675</u>	<u>21570</u>				5006



<u>2</u>	<u>Hourly</u>	<u>11.07</u>	<u>11.53</u>	<u>12.04</u>	<u>12.56</u>				5007
	<u>Annually</u>	<u>23026</u>	<u>23982</u>	<u>25043</u>	<u>26125</u>				5008
<u>3</u>	<u>Hourly</u>	<u>11.59</u>	<u>12.12</u>	<u>12.65</u>	<u>13.20</u>				5009
	<u>Annually</u>	<u>24107</u>	<u>25210</u>	<u>26312</u>	<u>27456</u>				5010
<u>4</u>	<u>Hourly</u>	<u>12.17</u>	<u>12.72</u>	<u>13.32</u>	<u>13.92</u>				5011
	<u>Annually</u>	<u>25314</u>	<u>26458</u>	<u>27706</u>	<u>28954</u>				5012
<u>5</u>	<u>Hourly</u>	<u>12.77</u>	<u>13.35</u>	<u>13.92</u>	<u>14.53</u>				5013
	<u>Annually</u>	<u>26562</u>	<u>27768</u>	<u>28954</u>	<u>30222</u>				5014
<u>6</u>	<u>Hourly</u>	<u>13.46</u>	<u>14.01</u>	<u>14.63</u>	<u>15.23</u>				5015
	<u>Annually</u>	<u>27997</u>	<u>29141</u>	<u>30430</u>	<u>31678</u>				5016
<u>7</u>	<u>Hourly</u>	<u>14.29</u>	<u>14.83</u>	<u>15.42</u>	<u>15.96</u>	<u>16.58</u>			5017
	<u>Annually</u>	<u>29723</u>	<u>30846</u>	<u>32074</u>	<u>33197</u>	<u>34486</u>			5018
<u>8</u>	<u>Hourly</u>	<u>15.11</u>	<u>15.77</u>	<u>16.46</u>	<u>17.19</u>	<u>17.92</u>			5019
	<u>Annually</u>	<u>31429</u>	<u>32802</u>	<u>34237</u>	<u>35755</u>	<u>37274</u>			5020
<u>9</u>	<u>Hourly</u>	<u>16.12</u>	<u>16.95</u>	<u>17.79</u>	<u>18.67</u>	<u>19.62</u>			5021
	<u>Annually</u>	<u>33530</u>	<u>35256</u>	<u>37003</u>	<u>38834</u>	<u>40810</u>			5022
<u>10</u>	<u>Hourly</u>	<u>17.39</u>	<u>18.34</u>	<u>19.32</u>	<u>20.44</u>	<u>21.53</u>			5023
	<u>Annually</u>	<u>36171</u>	<u>38147</u>	<u>40186</u>	<u>42515</u>	<u>44782</u>			5024
<u>11</u>	<u>Hourly</u>	<u>18.93</u>	<u>20.04</u>	<u>21.20</u>	<u>22.39</u>	<u>23.67</u>			5025
	<u>Annually</u>	<u>39374</u>	<u>41683</u>	<u>44096</u>	<u>46571</u>	<u>49234</u>			5026
<u>12</u>	<u>Hourly</u>	<u>20.88</u>	<u>22.06</u>	<u>23.24</u>	<u>24.53</u>	<u>25.90</u>	<u>27.31</u>	<u>28.82</u>	5027
	<u>Annually</u>	<u>43430</u>	<u>45885</u>	<u>48339</u>	<u>51022</u>	<u>53872</u>	<u>56805</u>	<u>59946</u>	5028
<u>13</u>	<u>Hourly</u>	<u>23.02</u>	<u>24.28</u>	<u>25.62</u>	<u>26.99</u>	<u>28.50</u>	<u>30.06</u>	<u>31.71</u>	5029
	<u>Annually</u>	<u>47882</u>	<u>50502</u>	<u>53290</u>	<u>56139</u>	<u>59280</u>	<u>62525</u>	<u>65957</u>	5030
<u>14</u>	<u>Hourly</u>	<u>25.32</u>	<u>26.75</u>	<u>28.18</u>	<u>29.73</u>	<u>31.41</u>	<u>33.16</u>	<u>34.96</u>	5031
	<u>Annually</u>	<u>52666</u>	<u>55640</u>	<u>58614</u>	<u>61838</u>	<u>65333</u>	<u>68973</u>	<u>72717</u>	5032
<u>15</u>	<u>Hourly</u>	<u>27.81</u>	<u>29.37</u>	<u>31.03</u>	<u>32.74</u>	<u>34.55</u>	<u>36.46</u>	<u>38.46</u>	5033
	<u>Annually</u>	<u>57845</u>	<u>61090</u>	<u>64542</u>	<u>68099</u>	<u>71864</u>	<u>75837</u>	<u>79997</u>	5034
<u>16</u>	<u>Hourly</u>	<u>30.66</u>	<u>32.36</u>	<u>34.15</u>	<u>36.06</u>	<u>38.05</u>	<u>40.22</u>	<u>42.43</u>	5035
	<u>Annually</u>	<u>63773</u>	<u>67309</u>	<u>71032</u>	<u>75005</u>	<u>79144</u>	<u>83658</u>	<u>88254</u>	5036
<u>17</u>	<u>Hourly</u>	<u>33.79</u>	<u>35.65</u>	<u>37.65</u>	<u>39.73</u>	<u>41.94</u>	<u>44.28</u>	<u>46.73</u>	5037
	<u>Annually</u>	<u>70283</u>	<u>74152</u>	<u>78312</u>	<u>82638</u>	<u>87235</u>	<u>92102</u>	<u>97198</u>	5038
<u>18</u>	<u>Hourly</u>	<u>37.23</u>	<u>39.29</u>	<u>41.50</u>	<u>43.79</u>	<u>46.21</u>	<u>48.80</u>	<u>51.48</u>	5039

	<u>Annually</u>	<u>77438</u>	<u>81723</u>	<u>86320</u>	<u>91083</u>	<u>96117</u>	<u>101504</u>	<u>107078</u>	5040
<u>Schedule E-2</u>									5041
	<u>Range</u>			<u>Minimum</u>			<u>Maximum</u>		5042
<u>41</u>	<u>Hourly</u>			<u>16.23</u>			<u>33.76</u>		5043
	<u>Annually</u>			<u>33758</u>			<u>70221</u>		5044
<u>42</u>	<u>Hourly</u>			<u>17.89</u>			<u>37.29</u>		5045
	<u>Annually</u>			<u>37211</u>			<u>77563</u>		5046
<u>43</u>	<u>Hourly</u>			<u>19.70</u>			<u>41.07</u>		5047
	<u>Annually</u>			<u>40976</u>			<u>85426</u>		5048
<u>44</u>	<u>Hourly</u>			<u>21.73</u>			<u>44.86</u>		5049
	<u>Annually</u>			<u>45198</u>			<u>93309</u>		5050
<u>45</u>	<u>Hourly</u>			<u>24.01</u>			<u>48.97</u>		5051
	<u>Annually</u>			<u>49941</u>			<u>101858</u>		5052
<u>46</u>	<u>Hourly</u>			<u>26.43</u>			<u>53.52</u>		5053
	<u>Annually</u>			<u>54974</u>			<u>111322</u>		5054
<u>47</u>	<u>Hourly</u>			<u>29.14</u>			<u>58.41</u>		5055
	<u>Annually</u>			<u>60611</u>			<u>121493</u>		5056
<u>48</u>	<u>Hourly</u>			<u>32.14</u>			<u>63.74</u>		5057
	<u>Annually</u>			<u>66851</u>			<u>132579</u>		5058
<u>49</u>	<u>Hourly</u>			<u>35.44</u>			<u>68.83</u>		5059
	<u>Annually</u>			<u>73715</u>			<u>143166</u>		5060

(C) As used in this section, "exempt employee" means a permanent full-time or permanent part-time employee paid directly by warrant of the auditor of state whose position is included in the job classification plan established under division (A) of section 124.14 of the Revised Code but who is not considered a public employee for the purposes of Chapter 4117. of the Revised Code. As used in this section, "exempt employee" also includes a permanent full-time or permanent part-time employee of the secretary of state, auditor of state, treasurer of state, or attorney general who has not been placed in an appropriate bargaining unit by the state employment relations board.

Sec. 124.181. (A) Except as provided in division (M) of this 5072  
section, any employee paid under schedule B of section 124.15 or 5073  
under schedule E-1 of section 124.152 of the Revised Code is 5074  
eligible for the pay supplements provided in this section upon 5075  
application by the appointing authority substantiating the 5076  
employee's qualifications for the supplement and with the approval 5077  
of the director of administrative services except as provided in 5078  
division (E) of this section. 5079

(B) ~~In~~ Except as provided in section 124.183 of the Revised 5080  
Code, in computing any of the pay supplements provided in this 5081  
section, the classification salary base shall be the minimum 5082  
hourly rate of the pay range, provided in section 124.15 or 5083  
124.152 of the Revised Code, in which the employee is assigned at 5084  
the time of computation. 5085

(C) The effective date of any pay supplement, except as 5086  
provided in section 124.183 of the Revised Code or unless 5087  
otherwise provided in this section, shall be determined by the 5088  
director. 5089

(D) The director shall, by rule, establish standards 5090  
regarding the administration of this section. 5091

(E)(1) Except as otherwise provided in this division, 5092  
beginning on the first day of the pay period within which the 5093  
employee completes five years of total service with the state 5094  
government or any of its political subdivisions, each employee in 5095  
positions paid under salary schedule B of section 124.15 or under 5096  
salary schedule E-1 of section 124.152 of the Revised Code shall 5097  
receive an automatic salary adjustment equivalent to two and 5098  
one-half per cent of the classification salary base, to the 5099  
nearest whole cent. Each employee shall receive thereafter an 5100  
annual adjustment equivalent to one-half of one per cent of the 5101  
employee's classification salary base, to the nearest whole cent, 5102

for each additional year of qualified employment until a maximum 5103  
of ten per cent of the employee's classification salary base is 5104  
reached. The granting of longevity adjustments shall not be 5105  
affected by promotion, demotion, or other changes in 5106  
classification held by the employee, nor by any change in pay 5107  
range for the employee's class. Longevity pay adjustments shall 5108  
become effective at the beginning of the pay period within which 5109  
the employee completes the necessary length of service, except 5110  
that when an employee requests credit for prior service, the 5111  
effective date of the prior service credit and of any longevity 5112  
adjustment shall be the first day of the pay period following 5113  
approval of the credit by the director of administrative services. 5114  
No employee, other than an employee who submits proof of prior 5115  
service within ninety days after the date of the employee's 5116  
hiring, shall receive any longevity adjustment for the period 5117  
prior to the director's approval of a prior service credit. Time 5118  
spent on authorized leave of absence shall be counted for this 5119  
purpose. 5120

(2) An employee who has retired in accordance with the 5121  
provisions of any retirement system offered by the state and who 5122  
is employed by the state or any political subdivision of the state 5123  
on or after June 24, 1987, shall not have prior service with the 5124  
state or any political subdivision of the state counted for the 5125  
purpose of determining the amount of the salary adjustment 5126  
provided under this division. 5127

(3) There shall be a moratorium on employees' receipt under 5128  
this division of credit for service with the state government or 5129  
any of its political subdivisions during the period from July 1, 5130  
2003, through June 30, 2005. In calculating the number of years of 5131  
total service under this division, no credit shall be included for 5132  
service during the moratorium. The moratorium shall apply to the 5133  
employees of the secretary of state, the auditor of state, the 5134

treasurer of state, the attorney general, the supreme court, and 5135  
state boards and commissions, who are subject to this section 5136  
unless the secretary of state, auditor of state, treasurer of 5137  
state, attorney general, supreme court, board, or commission 5138  
decides to exempt its employees from the moratorium and so 5139  
notifies the director of administrative services in writing. 5140

If an employee is exempt from the moratorium, receives credit 5141  
for a period of service during the moratorium, and takes a 5142  
position with another entity in the state government or any of its 5143  
political subdivisions, either during or after the moratorium, and 5144  
if that entity's employees are or were subject to the moratorium, 5145  
the employee shall continue to retain the credit. However, if the 5146  
moratorium is in effect upon the taking of the new position, the 5147  
employee shall cease receiving additional credit as long as the 5148  
employee is in the position, until the moratorium expires. 5149

(F) When an exceptional condition exists that creates a 5150  
temporary or a permanent hazard for one or more positions in a 5151  
class paid under schedule B of section 124.15 or under salary 5152  
schedule E-1 of section 124.152 of the Revised Code, a special 5153  
hazard salary adjustment may be granted for the time the employee 5154  
is subjected to the hazardous condition. All special hazard 5155  
conditions shall be identified for each position and incidence 5156  
from information submitted to the director on an appropriate form 5157  
provided by the director and categorized into standard conditions 5158  
of: some unusual hazard not common to the class; considerable 5159  
unusual hazard not common to the class; and exceptional hazard not 5160  
common to the class. 5161

(1) A hazardous salary adjustment of five per cent of the 5162  
employee's classification salary base may be applied in the case 5163  
of some unusual hazardous condition not common to the class for 5164  
those hours worked, or a fraction thereof, while the employee was 5165  
subject to the unusual hazard condition. 5166

(2) A hazardous salary adjustment of seven and one-half per cent of the employee's classification salary base may be applied in the case of some considerable hazardous condition not common to the class for those hours worked, or a fraction thereof, while the employee was subject to the considerable hazard condition.

(3) A hazardous salary adjustment of ten per cent of the employee's classification salary base may be applied in the case of some exceptional hazardous condition not common to the class for those hours worked, or a fraction thereof, when the employee was subject to the exceptional hazard condition.

(4) Each claim for temporary hazard pay shall be submitted as a separate payment and shall be subject to an administrative audit by the director as to the extent and duration of the employee's exposure to the hazardous condition.

(G) When a full-time employee whose salary or wage is paid directly by warrant of the auditor of state and who also is eligible for overtime under the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as amended, is ordered by the appointing authority to report back to work after termination of the employee's regular work schedule and the employee reports, the employee shall be paid for such time. The employee shall be entitled to four hours at the employee's total rate of pay or overtime compensation for the actual hours worked, whichever is greater. This division does not apply to work that is a continuation of or immediately preceding an employee's regular work schedule.

(H) When a certain position or positions paid under schedule B of section 124.15 or under salary schedule E-1 of section 124.152 of the Revised Code require the ability to speak or write a language other than English, a special pay supplement may be granted to attract bilingual individuals, to encourage present

employees to become proficient in other languages, or to retain 5198  
qualified bilingual employees. The bilingual pay supplement 5199  
provided in this division may be granted in the amount of five per 5200  
cent of the employee's classification salary base for each 5201  
required foreign language and shall remain in effect as long as 5202  
the bilingual requirement exists. 5203

(I) The director may establish a shift differential for 5204  
employees. Such differential shall be paid to employees in 5205  
positions working in other than the regular or first shift. In 5206  
those divisions or agencies where only one shift prevails, no 5207  
shift differential shall be paid regardless of the hours of the 5208  
day that are worked. The director and the appointing authority 5209  
shall designate which positions shall be covered by this division. 5210

(J) Whenever an employee is assigned to work in a higher 5211  
level position for a continuous period of more than two weeks but 5212  
no more than two years because of a vacancy, the employee's pay 5213  
may be established at a rate that is approximately four per cent 5214  
above the employee's current base rate for the period the employee 5215  
occupies the position, provided that this temporary occupancy is 5216  
approved by the director. Employees paid under this division shall 5217  
continue to receive any of the pay supplements due them under 5218  
other divisions of this section based on the step one base rate 5219  
for their normal classification. 5220

(K) If a certain position, or positions, within a class paid 5221  
under schedule B of section 124.15 or under salary schedule E-1 of 5222  
section 124.152 of the Revised Code are mandated by state or 5223  
federal law or regulation or other regulatory agency or other 5224  
certification authority to have special technical certification, 5225  
registration, or licensing to perform the functions which are 5226  
under the mandate, a special professional achievement pay 5227  
supplement may be granted. This special professional achievement 5228  
pay supplement shall not be granted when all incumbents in all 5229

positions in a class require license as provided in the 5230  
classification description published by the department of 5231  
administrative services; to licensees where no special or 5232  
extensive training is required; when certification is granted upon 5233  
completion of a stipulated term of in-service training; when an 5234  
appointing authority has required certification; or any other 5235  
condition prescribed by the director. 5236

(1) Before this supplement may be applied, evidence as to the 5237  
requirement must be provided by the agency for each position 5238  
involved, and certification must be received from the director as 5239  
to the director's concurrence for each of the positions so 5240  
affected. 5241

(2) The professional achievement pay supplement provided in 5242  
this division shall be granted in an amount up to ten per cent of 5243  
the employee's classification salary base and shall remain in 5244  
effect as long as the mandate exists. 5245

(L) Those employees assigned to teaching supervisory, 5246  
principal, assistant principal, or superintendent positions who 5247  
have attained a higher educational level than a basic bachelor's 5248  
degree may receive an educational pay supplement to remain in 5249  
effect as long as the employee's assignment and classification 5250  
remain the same. 5251

(1) An educational pay supplement of two and one-half per 5252  
cent of the employee's classification salary base may be applied 5253  
upon the achievement of a bachelor's degree plus twenty quarter 5254  
hours of postgraduate work. 5255

(2) An educational pay supplement of an additional five per 5256  
cent of the employee's classification salary base may be applied 5257  
upon achievement of a master's degree. 5258

(3) An educational pay supplement of an additional two and 5259  
one-half per cent of the employee's classification salary base may 5260



be applied upon achievement of a master's degree plus thirty 5261  
quarter hours of postgraduate work. 5262

(4) An educational pay supplement of five per cent of the 5263  
employee's classification salary base may be applied when the 5264  
employee is performing as a master teacher. 5265

(5) An educational pay supplement of five per cent of the 5266  
employee's classification salary base may be applied when the 5267  
employee is performing as a special education teacher. 5268

(6) Those employees in teaching supervisory, principal, 5269  
assistant principal, or superintendent positions who are 5270  
responsible for specific extracurricular activity programs shall 5271  
receive overtime pay for those hours worked in excess of their 5272  
normal schedule, at their straight time hourly rate up to a 5273  
maximum of five per cent of their regular base salary in any 5274  
calendar year. 5275

(M)(1) A state agency, board, or commission may establish a 5276  
supplementary compensation schedule for those licensed physicians 5277  
employed by the agency, board, or commission in positions 5278  
requiring a licensed physician. The supplementary compensation 5279  
schedule, together with the compensation otherwise authorized by 5280  
this chapter, shall provide for the total compensation for these 5281  
employees to range appropriately, but not necessarily uniformly, 5282  
for each classification title requiring a licensed physician, in 5283  
accordance with a schedule approved by the state controlling 5284  
board. The individual salary levels recommended for each such 5285  
physician employed shall be approved by the director. 5286  
Notwithstanding section 124.11 of the Revised Code, such personnel 5287  
are in the unclassified civil service. 5288

(2) The director of administrative services may approve 5289  
supplementary compensation for the director of health, if the 5290  
director is a licensed physician, in accordance with a 5291

supplementary compensation schedule approved under division (M)(1) 5292  
of this section or in accordance with another supplementary 5293  
compensation schedule the director of administrative services 5294  
considers appropriate. The supplementary compensation shall not 5295  
exceed twenty per cent of the director of health's base rate of 5296  
pay. 5297

(N) Notwithstanding sections 117.28, 117.30, 117.33, 117.36, 5298  
117.42, and 131.02 of the Revised Code, the state shall not 5299  
institute any civil action to recover and shall not seek 5300  
reimbursement for overpayments made in violation of division (E) 5301  
of this section or division (C) of section 9.44 of the Revised 5302  
Code for the period starting after June 24, 1987, and ending on 5303  
October 31, 1993. 5304

(O) Employees of the office of the treasurer of state who are 5305  
exempt from collective bargaining coverage may be granted a merit 5306  
pay supplement of up to one and one-half per cent of their step 5307  
rate. The rate at which this supplement is granted shall be based 5308  
on performance standards established by the treasurer of state. 5309  
Any supplements granted under this division shall be administered 5310  
on an annual basis. 5311

Sec. 124.183. (A) As used in this section, "active payroll" 5312  
means when an employee is actively working; on military, worker's 5313  
compensation, occupational injury, or disability leave; or on an 5314  
approved leave of absence. 5315

(B) Each permanent employee paid under schedule E-1 of 5316  
section 124.152 of the Revised Code who was appointed on or before 5317  
March 6, 2003, and is on the active payroll as of November 14, 5318  
2004, shall receive a one-time pay supplement. The supplement 5319  
shall be a two per cent lump sum payment that is based on the 5320  
annualization of the top step of the pay range that the employee 5321  
is in on November 14, 2004. 5322

Each permanent employee paid under schedule E-2 of section 124.152 of the Revised Code who was appointed on or before March 6, 2003, and is on the active payroll as of November 14, 2004, shall receive a one-time pay supplement. The supplement shall be a two per cent lump sum payment that is based upon the annualization of the maximum hourly rate of the pay range that the employee is in on November 14, 2004.

(C) Each permanent employee who is exempt from collective bargaining, is not covered by division (B) of this section, was appointed on or before March 6, 2003, and is on the active payroll as of November 14, 2004, shall receive a one-time pay supplement. The supplement shall be a two per cent lump sum payment that is based upon the annualization of the base rate of the employee's pay on November 14, 2004.

(D) A part-time employee who is eligible to receive a one-time pay supplement under division (B) or (C) of this section shall have the employee's one-time pay supplement pro-rated based on the number of hours worked in the twenty-six pay periods prior to November 14, 2004.

An employee who is eligible to receive a one-time pay supplement under division (B) or (C) of this section and was on a voluntary leave of absence shall have the employee's one-time pay supplement pro-rated based on the number of hours worked in the twenty-six pay periods prior to November 14, 2004.

(E) A one-time pay supplement under this section shall be paid in the employee's first paycheck in December of 2004.

(F) Notwithstanding any provision of law to the contrary, a one-time pay supplement under this section shall not be subject to withholding for deposit into any state retirement system. Notwithstanding any provision of law to the contrary, a one-time pay supplement under this section shall not be used for

calculation purposes in determining an employee's retirement 5354  
benefits in any state retirement system. 5355

(G)(1) This section does not apply to employees of the 5356  
general assembly, legislative agencies, or the supreme court. 5357

(2) This section does not apply to employees of the secretary 5358  
of state, auditor of state, treasurer of state, attorney general, 5359  
or state boards and commissions unless the secretary of state, 5360  
auditor of state, treasurer of state, attorney general, board, or 5361  
commission decides that its employees should be eligible for the 5362  
one-time pay supplement and so notifies the director of 5363  
administrative services in writing on or before July 1, 2004. 5364

Sec. 125.073. (A) The department of administrative services 5365  
shall actively promote and accelerate the use of electronic 5366  
procurement, including reverse auctions as defined by section 5367  
125.072 of the Revised Code, by implementing the relevant 5368  
recommendations concerning electronic procurement from the "2000 5369  
Management Improvement Commission Report to the Governor" when 5370  
exercising its statutory powers. 5371

(B) Beginning July 1, 2004, the department shall annually on 5372  
or before the first day of July report to the committees in each 5373  
house of the general assembly dealing with finance indicating the 5374  
effectiveness of electronic procurement. 5375

Sec. 125.15. All state agencies required to secure any 5376  
equipment, materials, supplies, or services, ~~or contracts of~~ 5377  
~~insurance~~ from the department of administrative services shall 5378  
make acquisition in the manner and upon forms prescribed by the 5379  
director of administrative services and shall reimburse the 5380  
department for the equipment, materials, supplies, or services, ~~or~~ 5381  
~~contracts of insurance~~, including a reasonable sum to cover the 5382  
department's administrative costs, whenever reimbursement is 5383

required by the department. The money so paid shall be deposited 5384  
in the state treasury to the credit of the general services fund 5385  
or the information technology fund, as appropriate. ~~Such~~ Those 5386  
funds are hereby created. 5387

**Sec. 125.91.** As used in sections 125.92 to 125.98 of the 5388  
Revised Code: 5389

(A) "State agency" includes every department, bureau, board, 5390  
commission, office, or other organized body established by the 5391  
constitution and laws of the state for the exercise of any 5392  
function of state government, but does not include any 5393  
state-supported institution of higher education, the general 5394  
assembly or any legislative agency, the attorney general, the 5395  
auditor of state, the secretary of state, the treasurer of state, 5396  
the bureau of workers' compensation, any court or judicial agency, 5397  
or any political subdivision or agency ~~thereof~~ of a political 5398  
subdivision. 5399

(B) "Form" means any document, device, or item used to convey 5400  
information, regardless of medium, that has blank spaces for the 5401  
insertion of information and that may have a predetermined format 5402  
and data elements to guide the entry, ~~interpretation~~ 5403  
interpretation, and use of the information. "Form" does not 5404  
include letterheads, envelopes, labels, tags, tickets, or note 5405  
pads, or forms mandated by the federal government, but does 5406  
include all computer-generated forms except those mandated by the 5407  
federal government. ~~As used in sections 125.931 to 125.935 of the~~ 5408  
~~Revised Code, "form" applies only to a form that is used by a~~ 5409  
~~state agency and that is completed in whole or in part by private~~ 5410  
~~business, political subdivisions, or the public.~~ 5411

**Sec. 125.92.** There is hereby established in the department of 5412  
administrative services a state forms management ~~control center~~ 5413

program, which shall be under the control and supervision of the 5414  
director of administrative services, ~~who shall appoint an~~ 5415  
~~administrator of the center~~ or the director's designee. 5416

The ~~center~~ state forms management program shall ~~develop,~~ 5417  
~~implement, and maintain a statewide forms management program that~~ 5418  
~~involves~~ be developed, implemented, and maintained for all state 5419  
agencies and ~~is~~ be designed to simplify, consolidate, or 5420  
eliminate, when expedient, forms, surveys, and other documents 5421  
used by state agencies. In developing the program, particular 5422  
emphasis shall be placed upon determining the actual need for any 5423  
information, records, and reports sought from private business, 5424  
agriculture, and local governments through the use of ~~such~~ forms, 5425  
surveys, and other documents. 5426

**Sec. 125.93.** The state forms management ~~control-center~~ 5427  
program shall do each of the following: 5428

(A) Assist state agencies in establishing internal forms 5429  
management capabilities; 5430

(B) Study, develop, coordinate, and initiate forms of 5431  
interagency and common administrative usage, and establish basic 5432  
design and specification criteria to standardize state forms; 5433

(C) Assist state agencies to design economical forms ~~and~~ 5434  
~~compose art work for forms;~~ 5435

(D) ~~Establish and supervise control procedures to prevent the~~ 5436  
~~undue creation and reproduction of state forms;~~ 5437

~~(E)~~ Assist, train, and instruct state agencies and their 5438  
forms management representatives in forms management techniques, 5439  
and provide direct forms management assistance to new state 5440  
agencies as they are created; 5441

~~(F)~~(E) Maintain a central ~~cross-index~~ forms repository of all 5442  
state forms to facilitate standardization of the forms, eliminate 5443

redundant forms, and provide a central source of information on 5444  
forms usage and availability. 5445

~~(G) Utilize existing functions within the department of 5446  
administrative services to design economical forms and compose art 5447  
work, as well as use appropriate procurement techniques to take 5448  
advantage of competitive selection, consolidated orders, and 5449  
contract procurement of forms; 5450~~

~~(H) Conduct an annual evaluation of the effectiveness of the 5451  
forms management program and the forms management practices of 5452  
individual state agencies, and maintain records that indicate 5453  
dollar savings resulting from, and the number of forms eliminated, 5454  
simplified, or standardized through, centralized forms management. 5455  
The results of the evaluation shall be reported to the speaker of 5456  
the house of representatives and president of the senate not later 5457  
than the fifteenth day of January each year. The center shall 5458  
report on the first day of each month to the state records 5459  
administrator on its activities during the preceding month. 5460~~

**Sec. 125.95.** (A) The administrator of the state forms 5461  
management ~~control center~~ program may permit any state agency to 5462  
manage fully any forms used or proposed to be used by it, whenever 5463  
the ~~administrator~~ program determines that the delegation will 5464  
result in the most timely and economical method of accomplishing 5465  
the objectives of the ~~forms management~~ program as set forth in 5466  
section 125.93 of the Revised Code. A determination to delegate to 5467  
a state agency authority to manage forms may, among other matters, 5468  
take into consideration the benefits of central management of any 5469  
form in relation to the costs associated with ~~such that~~ 5470  
management. 5471

(B) To expedite the collection and disposition of general 5472  
state and local revenue, the ~~administrator~~ state forms management 5473  
program shall permit, without prior authorization, the tax 5474

commissioner to design, print or have printed, distribute, and 5475  
require the use of those forms ~~which~~ that the tax commissioner 5476  
determines are necessary for the proper administration of those 5477  
taxes and programs ~~he~~ the tax commissioner administers except as 5478  
provided in division (A) of section 4307.05 of the Revised Code. 5479  
The tax commissioner shall report to the ~~administrator~~ program not 5480  
later than fifteen days after the close of each calendar quarter 5481  
with respect to the forms activities occurring within ~~his~~ the tax 5482  
commissioner's agency during the preceding calendar quarter. 5483

**Sec. 125.96.** The director of administrative services may 5484  
adopt, amend, or rescind rules necessary to carry out the powers 5485  
and duties imposed upon the state forms management ~~control center~~ 5486  
~~and its administrator~~ program and state agencies by sections 5487  
125.92 to 125.98 of the Revised Code. The director shall adopt, 5488  
and may amend or rescind, rules providing ~~that~~ each of the 5489  
following: 5490

(A) After a date to be determined by the ~~administrator~~ state 5491  
forms management program, no state agency shall utilize any form, 5492  
other than a form subject to division (B) of section 125.95 of the 5493  
Revised Code, the management of which has not been delegated to 5494  
the agency by the ~~administrator~~ program under division (A) of that 5495  
section ~~125.95 of the Revised Code~~ or ~~that has not~~ been approved 5496  
by the ~~center~~ program. 5497

(B) The notice required by section 125.97 of the Revised Code 5498  
shall appear in a standard place and a standard manner on each 5499  
form to which the notice applies, and shall include specified 5500  
indicia of approval by the ~~administrator~~ state forms management 5501  
program. 5502

(C) Any form required by a state agency on an emergency basis 5503  
may be given interim approval by the ~~administrator~~ state forms 5504  
management program if the form is accompanied by a letter from the 5505



director or other head of the agency setting forth the nature of 5506  
the emergency and requesting interim approval. 5507

**Sec. 125.98.** (A) Each state agency shall appoint a forms 5508  
management representative, who may be from existing personnel. The 5509  
appointee shall cooperate with, and provide other necessary 5510  
assistance to, the director of administrative services and the 5511  
~~administrator of the~~ state forms management ~~control center~~ program 5512  
in implementing the ~~state forms management~~ program. A forms 5513  
management representative shall do all of the following: 5514

(1) Manage the agency's forms management program and 5515  
cooperate with and provide other necessary assistance to the 5516  
director of administrative services in implementing the state 5517  
forms management program; 5518

(2) Monitor the use and reproduction of all forms to ensure 5519  
that all policies, procedures, guidelines, and standards 5520  
established by the agency and the director of administrative 5521  
services are followed; 5522

(3) Ensure that every form used by the agency is presented to 5523  
the state forms management ~~control center~~ program for registration 5524  
prior to its reproduction; 5525

(4) Maintain a master forms file history file, in numeric 5526  
order, of all agency forms; 5527

(5) Verify and update the information on all forms ~~computer~~ 5528  
~~file reports returned to the agency by the state forms management~~ 5529  
~~control center~~ in the central forms repository database. 5530

(B) Any state agency, as ~~such term is~~ defined in section 1.60 5531  
of the Revised Code, not included within the definition of a state 5532  
agency in section 125.91 of the Revised Code may elect to 5533  
participate in the state forms management program. The ~~center~~ 5534  
program may provide to any such agency any service required or 5535

authorized by sections 125.92 to 125.98 of the Revised Code to be 5536  
performed for a state agency. 5537

**Sec. 127.16.** (A) Upon the request of either a state agency or 5538  
the director of budget and management and after the controlling 5539  
board determines that an emergency or a sufficient economic reason 5540  
exists, the controlling board may approve the making of a purchase 5541  
without competitive selection as provided in division (B) of this 5542  
section. 5543

(B) Except as otherwise provided in this section, no state 5544  
agency, using money that has been appropriated to it directly, 5545  
shall: 5546

(1) Make any purchase from a particular supplier, that would 5547  
amount to fifty thousand dollars or more when combined with both 5548  
the amount of all disbursements to the supplier during the fiscal 5549  
year for purchases made by the agency and the amount of all 5550  
outstanding encumbrances for purchases made by the agency from the 5551  
supplier, unless the purchase is made by competitive selection or 5552  
with the approval of the controlling board; 5553

(2) Lease real estate from a particular supplier, if the 5554  
lease would amount to seventy-five thousand dollars or more when 5555  
combined with both the amount of all disbursements to the supplier 5556  
during the fiscal year for real estate leases made by the agency 5557  
and the amount of all outstanding encumbrances for real estate 5558  
leases made by the agency from the supplier, unless the lease is 5559  
made by competitive selection or with the approval of the 5560  
controlling board. 5561

(C) Any person who authorizes a purchase in violation of 5562  
division (B) of this section shall be liable to the state for any 5563  
state funds spent on the purchase, and the attorney general shall 5564  
collect the amount from the person. 5565

(D) Nothing in division (B) of this section shall be construed as:	5566
	5567
(1) A limitation upon the authority of the director of transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code;	5568
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(2) Applying to medicaid provider agreements under Chapter 5111. of the Revised Code or payments or provider agreements under <u>the</u> disability <del>assistance</del> medical assistance <u>program</u> established under Chapter 5115. of the Revised Code;	5571
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(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;	5575
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	5577
(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair;	5578
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(5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;	5587
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(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf	5591
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of the agency. The filing shall be in a form and at such times as	5597
the board considers appropriate.	5598
(7) Applying to purchases made with money for the per cent	5599
for arts program established by section 3379.10 of the Revised	5600
Code;	5601
(8) Applying to purchases made by the rehabilitation services	5602
commission of services, or supplies, that are provided to persons	5603
with disabilities, or to purchases made by the commission in	5604
connection with the eligibility determinations it makes for	5605
applicants of programs administered by the social security	5606
administration;	5607
(9) Applying to payments by the department of job and family	5608
services under section 5111.13 of the Revised Code for group	5609
health plan premiums, deductibles, coinsurance, and other	5610
cost-sharing expenses;	5611
(10) Applying to any agency of the legislative branch of the	5612
state government;	5613
(11) Applying to agreements or contracts entered into under	5614
section 5101.11, 5101.21, or 5101.211 of the Revised Code;	5615
(12) Applying to purchases of services by the adult parole	5616
authority under section 2967.14 of the Revised Code or by the	5617
department of youth services under section 5139.08 of the Revised	5618
Code;	5619
(13) Applying to dues or fees paid for membership in an	5620
organization or association;	5621
(14) Applying to purchases of utility services pursuant to	5622
section 9.30 of the Revised Code;	5623
(15) Applying to purchases made in accordance with rules	5624
adopted by the department of administrative services of motor	5625
vehicle, aviation, or watercraft fuel, or emergency repairs of	5626

such vehicles;	5627
(16) Applying to purchases of tickets for passenger air transportation;	5628 5629
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	5630 5631 5632
(18) Applying to the judicial branch of state government;	5633
(19) Applying to purchases of liquor for resale by the division of liquor control;	5634 5635
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	5636 5637 5638
(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;	5639 5640 5641 5642
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	5643 5644 5645
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	5646 5647
(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;	5648 5649 5650 5651
(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code;	5652 5653
(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	5654 5655 5656

refund offset program of the internal revenue service of the 5657  
United States department of the treasury; 5658

(27) Applying to contracts entered into by the department of 5659  
mental retardation and developmental disabilities under sections 5660  
5123.18, 5123.182, and ~~5111.252~~ 5123.199 of the Revised Code; 5661

(28) Applying to payments made by the department of mental 5662  
health under a physician recruitment program authorized by section 5663  
5119.101 of the Revised Code; 5664

(29) Applying to contracts entered into with persons by the 5665  
director of commerce for unclaimed funds collection and remittance 5666  
efforts as provided in division (F) of section 169.03 of the 5667  
Revised Code. The director shall keep an itemized accounting of 5668  
unclaimed funds collected by those persons and amounts paid to 5669  
them for their services. 5670

(30) Applying to purchases made by a state institution of 5671  
higher education in accordance with the terms of a contract 5672  
between the vendor and an inter-university purchasing group 5673  
comprised of purchasing officers of state institutions of higher 5674  
education; 5675

(31) Applying to the department of job and family services' 5676  
purchases of health assistance services under the children's 5677  
health insurance program part I provided for under section 5101.50 5678  
of the Revised Code or the children's health insurance program 5679  
part II provided for under section 5101.51 of the Revised Code; 5680

(32) Applying to payments by the attorney general from the 5681  
reparations fund to hospitals and other emergency medical 5682  
facilities for performing medical examinations to collect physical 5683  
evidence pursuant to section 2907.28 of the Revised Code; 5684

(33) Applying to contracts with a contracting authority or 5685  
administrative receiver under division (G)(2) of section 5126.055 5686  
of the Revised Code; 5687

<u>(34) Applying to reimbursements paid to the United States</u>	5688
<u>department of veterans affairs for pharmaceutical and patient</u>	5689
<u>supply purchases made on behalf of the Ohio veterans' home agency.</u>	5690
(E) Notwithstanding division (B)(1) of this section, the	5691
cumulative purchase threshold shall be seventy-five thousand	5692
dollars for the departments of mental retardation and	5693
developmental disabilities, mental health, rehabilitation and	5694
correction, and youth services.	5695
(F) When determining whether a state agency has reached the	5696
cumulative purchase thresholds established in divisions (B)(1),	5697
(B)(2), and (E) of this section, all of the following purchases by	5698
such agency shall not be considered:	5699
(1) Purchases made through competitive selection or with	5700
controlling board approval;	5701
(2) Purchases listed in division (D) of this section;	5702
(3) For the purposes of the thresholds of divisions (B)(1)	5703
and (E) of this section only, leases of real estate.	5704
(G) As used in this section, "competitive selection,"	5705
"purchase," "supplies," and "services" have the same meanings as	5706
in section 125.01 of the Revised Code.	5707
<b>Sec. 131.02.</b> (A) Whenever any amount is payable to the state,	5708
the officer, employee, or agent responsible for administering the	5709
law under which the amount is payable shall immediately proceed to	5710
collect the amount or cause the amount to be collected and shall	5711
pay the amount into the state treasury <u>or into the appropriate</u>	5712
<u>custodial fund</u> in the manner set forth pursuant to section 113.08	5713
of the Revised Code. If the amount is not paid within forty-five	5714
days after payment is due, the officer, employee, or agent shall	5715
certify the amount due to the attorney general, in the form and	5716
manner prescribed by the attorney general, and notify the director	5717

of budget and management thereof. 5718

(B)(1) The attorney general shall give immediate notice by 5719  
mail or otherwise to the party indebted of the nature and amount 5720  
of the indebtedness. 5721

(2) If the amount payable to this state arises from a tax 5722  
levied under Chapter 5733., 5739., 5741., or 5747. of the Revised 5723  
Code, the notice also shall specify all of the following: 5724

(a) The assessment or case number; 5725

(b) The tax pursuant to which the assessment is made; 5726

(c) The reason for the liability, including, if applicable, 5727  
that a penalty or interest is due; 5728

(d) An explanation of how and when interest will be added to 5729  
the amount assessed; 5730

(e) That the attorney general and tax commissioner, acting 5731  
together, have the authority, but are not required, to compromise 5732  
the claim and accept payment over a reasonable time, if such 5733  
actions are in the best interest of the state. 5734

(C) The attorney general shall collect the claim or secure a 5735  
judgment and issue an execution for its collection. 5736

(D) Each claim shall bear interest, from the day on which the 5737  
claim became due, at the ~~base~~ rate per annum ~~for advances and~~ 5738  
~~discounts to member banks in effect at the federal reserve bank in~~ 5739  
required by section 5703.47 of the second federal reserve district 5740  
Revised Code. 5741

(E) The attorney general and the chief officer of the agency 5742  
reporting a claim, acting together, may do ~~either or both~~ any of 5743  
the following if such action is in the best interests of the 5744  
state: 5745

(1) Compromise the claim; 5746



(2) Extend for a reasonable period the time for payment of 5747  
the claim by agreeing to accept monthly or other periodic 5748  
payments. The agreement may require security for payment of the 5749  
claim. 5750

(3) Add fees to recover the cost of processing checks or 5751  
other draft instruments returned for insufficient funds and the 5752  
cost of providing electronic payment options. 5753

**Sec. 131.23.** The various political subdivisions of this state 5754  
may issue bonds, and any indebtedness created by such issuance 5755  
shall not be subject to the limitations or included in the 5756  
calculation of indebtedness prescribed by sections 133.05, 133.06, 5757  
133.07, and 133.09 of the Revised Code, but such bonds may be 5758  
issued only under the following conditions: 5759

(A) The subdivision desiring to issue such bonds shall obtain 5760  
from the county auditor a certificate showing the total amount of 5761  
delinquent taxes due and unpayable to such subdivision at the last 5762  
semiannual tax settlement. 5763

(B) The fiscal officer of that subdivision shall prepare a 5764  
statement, from the books of the subdivision, verified by ~~him~~ the 5765  
fiscal officer under oath, which shall contain the following facts 5766  
of such subdivision: 5767

(1) The total bonded indebtedness; 5768

(2) The aggregate amount of notes payable or outstanding 5769  
accounts of the subdivision, incurred prior to the commencement of 5770  
the current fiscal year, which shall include all evidences of 5771  
indebtedness issued by the subdivision except notes issued in 5772  
anticipation of bond issues and the indebtedness of any 5773  
nontax-supported public utility; 5774

(3) Except in the case of school districts, the aggregate 5775  
current year's requirement for disability financial assistance and 5776

<u>disability medical</u> assistance provided under Chapter 5115. of the Revised Code that the subdivision is unable to finance except by the issue of bonds;	5777 5778 5779
(4) The indebtedness outstanding through the issuance of any bonds or notes pledged or obligated to be paid by any delinquent taxes;	5780 5781 5782
(5) The total of any other indebtedness;	5783
(6) The net amount of delinquent taxes unpledged to pay any bonds, notes, or certificates, including delinquent assessments on improvements on which the bonds have been paid;	5784 5785 5786
(7) The budget requirements for the fiscal year for bond and note retirement;	5787 5788
(8) The estimated revenue for the fiscal year.	5789
(C) The certificate and statement provided for in divisions (A) and (B) of this section shall be forwarded to the tax commissioner together with a request for authority to issue bonds of such subdivision in an amount not to exceed seventy per cent of the net unobligated delinquent taxes and assessments due and owing to such subdivision, as set forth in division (B)(6) of this section.	5790 5791 5792 5793 5794 5795 5796
(D) No subdivision may issue bonds under this section in excess of a sufficient amount to pay the indebtedness of the subdivision as shown by division (B)(2) of this section and, except in the case of school districts, to provide funds for disability <u>financial assistance and disability medical</u> assistance, as shown by division (B)(3) of this section.	5797 5798 5799 5800 5801 5802
(E) The tax commissioner shall grant to such subdivision authority requested by such subdivision as restricted by divisions (C) and (D) of this section and shall make a record of the certificate, statement, and grant in a record book devoted solely	5803 5804 5805 5806

to such recording and which shall be open to inspection by the public. 5807  
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(F) The commissioner shall immediately upon issuing the authority provided in division (E) of this section notify the proper authority having charge of the retirement of bonds of such subdivision by forwarding a copy of such grant of authority and of the statement provided for in division (B) of this section. 5809  
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(G) Upon receipt of authority, the subdivision shall proceed according to law to issue the amount of bonds authorized by the commissioner, and authorized by the taxing authority, provided the taxing authority of that subdivision may by resolution submit to the electors of that subdivision the question of issuing such bonds. Such resolution shall make the declarations and statements required by section 133.18 of the Revised Code. The county auditor and taxing authority shall thereupon proceed as set forth in divisions (C) and (D) of such section. The election on the question of issuing such bonds shall be held under divisions (E), (F), and (G) of such section, except that publication of the notice of such election shall be made on four separate days prior to such election in one or more newspapers of general circulation in the subdivisions. Such bonds may be exchanged at their face value with creditors of the subdivision in liquidating the indebtedness described and enumerated in division (B)(2) of this section or may be sold as provided in Chapter 133. of the Revised Code, and in either event shall be uncontestable. 5814  
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(H) The per cent of delinquent taxes and assessments collected for and to the credit of the subdivision after the exchange or sale of bonds as certified by the commissioner shall be paid to the authority having charge of the sinking fund of the subdivision, which money shall be placed in a separate fund for the purpose of retiring the bonds so issued. The proper authority of the subdivisions shall provide for the levying of a tax 5832  
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sufficient in amount to pay the debt charges on all such bonds 5839  
issued under this section. 5840

(I) This section is for the sole purpose of assisting the 5841  
various subdivisions in paying their unsecured indebtedness, and 5842  
providing funds for disability financial assistance and disability 5843  
medical assistance. The bonds issued under authority of this 5844  
section shall not be used for any other purpose and any exchange 5845  
for other purposes, or the use of the money derived from the sale 5846  
of such bonds by the subdivision for any other purpose, is 5847  
misapplication of funds. 5848

(J) The bonds authorized by this section shall be redeemable 5849  
or payable in not to exceed ten years from date of issue and shall 5850  
not be subject to or considered in calculating the net 5851  
indebtedness of the subdivision. The budget commission of the 5852  
county in which the subdivision is located shall annually allocate 5853  
such portion of the then delinquent levy due such subdivision 5854  
which is unpledged for other purposes to the payment of debt 5855  
charges on the bonds issued under authority of this section. 5856

(K) The issue of bonds under this section shall be governed 5857  
by Chapter 133. of the Revised Code, respecting the terms used, 5858  
forms, manner of sale, and redemption except as otherwise provided 5859  
in this section. 5860

The board of county commissioners of any county may issue 5861  
bonds authorized by this section and distribute the proceeds of 5862  
such bond issues to any or all of the cities and townships of such 5863  
counties, according to their relative needs for disability 5864  
financial assistance and disability medical assistance as 5865  
determined by such county. 5866

All sections of the Revised Code inconsistent with or 5867  
prohibiting the exercise of the authority conferred by this 5868  
section are inoperative respecting bonds issued under this 5869

section. 5870

**Sec. 131.35.** (A) With respect to the federal funds received 5871  
into any fund of the state from which transfers may be made under 5872  
division (D) of section 127.14 of the Revised Code: 5873

(1) No state agency may make expenditures of any federal 5874  
funds, whether such funds are advanced prior to expenditure or as 5875  
reimbursement, unless such expenditures are made pursuant to 5876  
specific appropriations of the general assembly ~~identifying the~~ 5877  
~~federal program that is the source of funds, are authorized~~ 5878  
~~pursuant to section 131.38 of the Revised Code, are authorized by~~ 5879  
the controlling board pursuant to division (A)(5) of this section, 5880  
or are authorized by an executive order issued in accordance with 5881  
section 107.17 of the Revised Code, and until an allotment has 5882  
been approved by the director of budget and management. All 5883  
federal funds received by a state agency shall be reported to the 5884  
director within fifteen days of the receipt of such funds or the 5885  
notification of award, whichever occurs first. The director shall 5886  
prescribe the forms and procedures to be used when reporting the 5887  
receipt of federal funds. 5888

(2) If the federal funds received are greater than the amount 5889  
of such funds appropriated by the general assembly for a specific 5890  
purpose, the total appropriation of federal and state funds for 5891  
such purpose shall remain at the amount designated by the general 5892  
assembly, except that the expenditure of federal funds received in 5893  
excess of such specific appropriation may be authorized by the 5894  
controlling board. 5895

(3) To the extent that the expenditure of excess federal 5896  
funds is authorized, the controlling board may transfer a like 5897  
amount of general revenue fund appropriation authority from the 5898  
affected agency to the emergency purposes appropriation of the 5899  
controlling board, if such action is permitted under federal 5900

regulations. 5901

(4) Additional funds may be created by the controlling board 5902  
to receive revenues not anticipated in an appropriations act for 5903  
the biennium in which such new revenues are received. Expenditures 5904  
from such additional funds may be authorized by the controlling 5905  
board, but such authorization shall not extend beyond the end of 5906  
the biennium in which such funds are created. 5907

(5) Controlling board authorization for a state agency to 5908  
make an expenditure of federal funds constitutes authority for the 5909  
agency to participate in the federal program providing the funds, 5910  
and the agency is not required to obtain an executive order under 5911  
section 107.17 of the Revised Code to participate in the federal 5912  
program. 5913

(B) With respect to nonfederal funds received into the 5914  
waterways safety fund, the wildlife fund, and any fund of the 5915  
state from which transfers may be made under division (D) of 5916  
section 127.14 of the Revised Code: 5917

(1) No state agency may make expenditures of any such funds 5918  
unless the expenditures are made pursuant to specific 5919  
appropriations of the general assembly. 5920

(2) If the receipts received into any fund are greater than 5921  
the amount appropriated, the appropriation for that fund shall 5922  
remain at the amount designated by the general assembly or as 5923  
increased and approved by the controlling board. 5924

(3) Additional funds may be created by the controlling board 5925  
to receive revenues not anticipated in an appropriations act for 5926  
the biennium in which such new revenues are received. Expenditures 5927  
from such additional funds may be authorized by the controlling 5928  
board, but such authorization shall not extend beyond the end of 5929  
the biennium in which such funds are created. 5930

(C) The controlling board shall not authorize more than ten 5931

per cent of additional spending from the occupational licensing 5932  
and regulatory fund, created in section 4743.05 of the Revised 5933  
Code, in excess of any appropriation made by the general assembly 5934  
to a licensing agency except an appropriation for costs related to 5935  
the examination or reexamination of applicants for a license. As 5936  
used in this division, "licensing agency" and "license" have the 5937  
same meanings as in section 4745.01 of the Revised Code. 5938

**Sec. 145.38.** (A) As used in this section and ~~section~~ sections 5939  
145.381 and 145.384 of the Revised Code: 5940

(1) "PERS retirant" means a former member of the public 5941  
employees retirement system who is receiving one of the following: 5942

(a) Age and service retirement benefits under section 145.32, 5943  
145.33, 145.331, 145.34, or 145.46 of the Revised Code; 5944

(b) Age and service retirement benefits paid by the public 5945  
employees retirement system under section 145.37 of the Revised 5946  
Code; 5947

(c) Any benefit paid under a PERS defined contribution plan. 5948

(2) "Other system retirant" means both of the following: 5949

(a) A member or former member of the Ohio police and fire 5950  
pension fund, state teachers retirement system, school employees 5951  
retirement system, state highway patrol retirement system, or 5952  
Cincinnati retirement system who is receiving age and service or 5953  
commuted age and service retirement benefits or a disability 5954  
benefit from a system of which the person is a member or former 5955  
member; 5956

(b) A member or former member of the public employees 5957  
retirement system who is receiving age and service retirement 5958  
benefits or a disability benefit under section 145.37 of the 5959  
Revised Code paid by the school employees retirement system or the 5960  
state teachers retirement system. 5961

(B)(1) Subject to this section and section 145.381 of the Revised Code, a PERS retirant or other system retirant may be employed by a public employer. If so employed, the PERS retirant or other system retirant shall contribute to the public employees retirement system in accordance with section 145.47 of the Revised Code, and the employer shall make contributions in accordance with section 145.48 of the Revised Code.

(2) A public employer that employs a PERS retirant or other system retirant, or enters into a contract for services as an independent contractor with a PERS retirant shall notify the retirement board of the employment or contract not later than the end of the month in which the employment or contract commences. Any overpayment of benefits to a PERS retirant by the retirement system resulting from delay or failure of the employer to give the notice shall be repaid to the retirement system by the employer.

(3) On receipt of notice from a public employer that a person who is an other system retirant has been employed, the retirement system shall notify the retirement system of which the other system retirant was a member of such employment.

(4)(a) A PERS retirant who has received a retirement allowance for less than two months when employment subject to this section commences shall forfeit the retirement allowance for any month the PERS retirant is employed prior to the expiration of the two-month period. Service and contributions for that period shall not be included in calculation of any benefits payable to the PERS retirant and those contributions shall be refunded on the retirant's death or termination of the employment.

(b) An other system retirant who has received a retirement allowance or disability benefit for less than two months when employment subject to this section commences shall forfeit the retirement allowance or disability benefit for any month the other



system retirant is employed prior to the expiration of the 5993  
two-month period. Service and contributions for that period shall 5994  
not be included in the calculation of any benefits payable to the 5995  
other system retirant and those contributions shall be refunded on 5996  
the retirant's death or termination of the employment. 5997

(c) Contributions made on compensation earned after the 5998  
expiration of the two-month period shall be used in the 5999  
calculation of the benefit or payment due under section 145.384 of 6000  
the Revised Code. 6001

(5) On receipt of notice from the Ohio police and fire 6002  
pension fund, school employees retirement system, or state 6003  
teachers retirement system of the re-employment of a PERS 6004  
retirant, the public employees retirement system shall not pay, or 6005  
if paid, shall recover, the amount to be forfeited by the PERS 6006  
retirant in accordance with section 742.26, 3307.35, or 3309.341 6007  
of the Revised Code. 6008

(6) A PERS retirant who enters into a contract to provide 6009  
services as an independent contractor to the employer by which the 6010  
retirant was employed at the time of retirement or, less than two 6011  
months after the retirement allowance commences, begins providing 6012  
services as an independent contractor pursuant to a contract with 6013  
another public employer, shall forfeit the pension portion of the 6014  
retirement benefit for the period beginning the first day of the 6015  
month following the month in which the services begin and ending 6016  
on the first day of the month following the month in which the 6017  
services end. The annuity portion of the retirement allowance 6018  
shall be suspended on the day services under the contract begin 6019  
and shall accumulate to the credit of the retirant to be paid in a 6020  
single payment after services provided under the contract 6021  
terminate. A PERS retirant subject to division (B)(6) of this 6022  
section shall not contribute to the retirement system and shall 6023  
not become a member of the system. 6024

(7) As used in this division, "employment" includes service 6025  
for which a PERS retirant or other system retirant, the retirant's 6026  
employer, or both, have waived any earnable salary for the 6027  
service. 6028

(C)(1) Except as provided in division (C)(3) of this section, 6029  
this division applies to both of the following: 6030

(a) A PERS retirant who, prior to September 14, 2000, was 6031  
subject to division (C)(1)(b) of this section as that division 6032  
existed immediately prior to September 14, 2000, and has not 6033  
elected pursuant to Am. Sub. S.B. 144 of the 123rd general 6034  
assembly to cease to be subject to that division; 6035

(b) A PERS retirant to whom both of the following apply: 6036

(i) The retirant held elective office in this state, or in 6037  
any municipal corporation, county, or other political subdivision 6038  
of this state at the time of retirement under this chapter. 6039

(ii) The retirant was elected or appointed to the same office 6040  
for the remainder of the term or the term immediately following 6041  
the term during which the retirement occurred. 6042

(2) A PERS retirant who is subject to this division is a 6043  
member of the public employees retirement system with all the 6044  
rights, privileges, and obligations of membership, except that the 6045  
membership does not include survivor benefits provided pursuant to 6046  
section 145.45 of the Revised Code or, beginning on the ninetieth 6047  
day after September 14, 2000, any amount calculated under section 6048  
145.401 of the Revised Code. The pension portion of the PERS 6049  
retirant's retirement allowance shall be forfeited until the first 6050  
day of the first month following termination of the employment. 6051  
The annuity portion of the retirement allowance shall accumulate 6052  
to the credit of the PERS retirant to be paid in a single payment 6053  
after termination of the employment. The retirement allowance 6054  
shall resume on the first day of the first month following 6055

termination of the employment. On termination of the employment, 6056  
the PERS retirant shall elect to receive either a refund of the 6057  
retirant's contributions to the retirement system during the 6058  
period of employment subject to this section or a supplemental 6059  
retirement allowance based on the retirant's contributions and 6060  
service credit for that period of employment. 6061

(3) This division does not apply to any of the following: 6062

(a) A PERS retirant elected to office who, at the time of the 6063  
election for the retirant's current term, was not retired but, not 6064  
less than ninety days prior to the election for the term, filed a 6065  
written declaration of intent to retire before the end of the term 6066  
with the board of elections of the county in which petitions for 6067  
nomination or election to the office were filed; 6068

(b) A PERS retirant elected to office who, at the time of the 6069  
election for the retirant's current term, was a retirant and had 6070  
been retired for not less than ninety days; 6071

(c) A PERS retirant appointed to office who, at the time of 6072  
appointment to the retirant's current term, notified the person or 6073  
entity making the appointment that the retirant was already 6074  
retired or intended to retire before the end of the term. 6075

(D)(1) Except as provided in division (C) of this section, a 6076  
PERS retirant or other system retirant subject to this section is 6077  
not a member of the public employees retirement system, and, 6078  
except as specified in this section does not have any of the 6079  
rights, privileges, or obligations of membership. Except as 6080  
specified in division (D)(2) of this section, the retirant is not 6081  
eligible to receive health, medical, hospital, or surgical 6082  
benefits under section 145.58 of the Revised Code for employment 6083  
subject to this section. 6084

(2) A PERS retirant subject to this section shall receive 6085  
primary health, medical, hospital, or surgical insurance coverage 6086

from the retirant's employer, if the employer provides coverage to 6087  
other employees performing comparable work. Neither the employer 6088  
nor the PERS retirant may waive the employer's coverage, except 6089  
that the PERS retirant may waive the employer's coverage if the 6090  
retirant has coverage comparable to that provided by the employer 6091  
from a source other than the employer or the public employees 6092  
retirement system. If a claim is made, the employer's coverage 6093  
shall be the primary coverage and shall pay first. The benefits 6094  
provided under section 145.58 of the Revised Code shall pay only 6095  
those medical expenses not paid through the employer's coverage or 6096  
coverage the PERS retirant receives through a source other than 6097  
the retirement system. 6098

(E) If the disability benefit of an other system retirant 6099  
employed under this section is terminated, the retirant shall 6100  
become a member of the public employees retirement system, 6101  
effective on the first day of the month next following the 6102  
termination with all the rights, privileges, and obligations of 6103  
membership. If such person, after the termination of the 6104  
disability benefit, earns two years of service credit under this 6105  
system or under the Ohio police and fire pension fund, state 6106  
teachers retirement system, school employees retirement system, or 6107  
state highway patrol retirement system, the person's prior 6108  
contributions as an other system retirant under this section shall 6109  
be included in the person's total service credit as a public 6110  
employees retirement system member, and the person shall forfeit 6111  
all rights and benefits of this section. Not more than one year of 6112  
credit may be given for any period of twelve months. 6113

(F) This section does not affect the receipt of benefits by 6114  
or eligibility for benefits of any person who on August 20, 1976, 6115  
was receiving a disability benefit or service retirement pension 6116  
or allowance from a state or municipal retirement system in Ohio 6117  
and was a member of any other state or municipal retirement system 6118

of this state. 6119

(G) The public employees retirement board may adopt rules to 6120  
carry out this section. 6121

Sec. 145.381. (A) Except as provided in division (B) of this 6122  
section, no person who is, or at the time of employment will be, a 6123  
PERS retirant may be employed by a public employer or provide 6124  
service as an independent contractor to a public employer unless 6125  
the public employer does both of the following in accordance with 6126  
rules adopted under division (F) of this section: 6127

(1) Not less than sixty days before the employment or service 6128  
is to begin, makes public the fact that the person is or will be 6129  
retired and is seeking employment with the public employer or to 6130  
provide service as an independent contractor to the public 6131  
employer; 6132

(2) Between fifteen and thirty days before the employment or 6133  
service is to begin and after complying with division (A)(1) of 6134  
this section, holds a public meeting on the issue of the person 6135  
being employed by or providing services as an independent 6136  
contractor to the public employer. 6137

(B) A person is not subject to division (A) of this section 6138  
if the employment involved is an elective office of this state or 6139  
any municipal corporation, county, or other political subdivision 6140  
of this state. 6141

(C) A PERS retirant who is employed by or provides services 6142  
as an independent contractor to a public employer that has not 6143  
complied with division (A) of this section shall forfeit the 6144  
pension portion of the retirement benefit for the period beginning 6145  
the first day of the month following the month in which the 6146  
employment or service begins and ending on the first day of the 6147  
month following the month in which the employment or service ends. 6148

The annuity portion of the retirement allowance shall be suspended 6149  
beginning the first day of the month following the month in which 6150  
the employment or service begins and shall accumulate to the 6151  
credit of the PERS retirant to be paid in a single payment after 6152  
employment or service terminates. 6153

(D) A public employer shall repay the public employees 6154  
retirement system for the payment of any benefit that the 6155  
retirement system makes to a PERS retirant who should not receive 6156  
the payment because of a penalty imposed under this section unless 6157  
the public employer notifies the retirement system before the 6158  
payment is made that the payment should not be made because of a 6159  
violation of division (A) of this section. 6160

(E) The operation of this section does not affect the 6161  
operation of section 145.38 of the Revised Code. If a PERS 6162  
retirant is subject to a penalty under this section and division 6163  
(B)(4)(a) of section 145.38 of the Revised Code, the penalty under 6164  
this section shall begin the month that follows the month the 6165  
penalty under division (B)(4)(a) of section 145.38 of the Revised 6166  
Code ends. If a PERS retirant is subject to a penalty under this 6167  
section and division (B)(6) of section 145.38 of the Revised Code, 6168  
the penalty under division (B)(6) of section 145.38 supersedes the 6169  
penalty under this section. 6170

(F) The public employees retirement board shall adopt rules 6171  
as necessary to implement this section. 6172

**Sec. 147.01.** (A) The secretary of state may appoint and 6173  
commission as notaries public as many persons who meet the 6174  
qualifications of division (B) of this section as the secretary of 6175  
state considers necessary. 6176

(B) In order for a person to qualify to be appointed and 6177  
commissioned as a notary public, the person must satisfy both of 6178  
the following: 6179

- (1) The person has attained the age of eighteen years. 6180
- (2) One of the following applies: 6181
- (a) The person is a ~~citizen~~ legal resident of this state who 6182  
is not an attorney admitted to the practice of law in this state 6183  
by the Ohio supreme court. 6184
- (b) The person is a ~~citizen~~ legal resident of this state who 6185  
is an attorney admitted to the practice of law in this state by 6186  
the Ohio supreme court. 6187
- (c) The person is not a ~~citizen~~ legal resident of this state, 6188  
is an attorney admitted to the practice of law in this state by 6189  
the Ohio supreme court, and has the person's principal place of 6190  
business or the person's primary practice in this state. 6191
- (C) A notary public shall be appointed and commissioned as a 6192  
notary public for the state. The secretary of state may revoke a 6193  
commission issued to a notary public upon presentation of 6194  
satisfactory evidence of official misconduct or incapacity. 6195
- Sec. 147.37.** Each person receiving a commission as notary 6196  
public, ~~except~~ including an attorney admitted to the practice of 6197  
law in this state by the Ohio supreme court, shall pay a fee of 6198  
~~five~~ fifteen dollars to the secretary of state. ~~Each person~~ 6199  
~~receiving a commission as a notary public who is an attorney~~ 6200  
~~admitted to the practice of law in this state by the Ohio supreme~~ 6201  
~~court shall pay a fee of ten dollars to the secretary of state.~~ 6202
- Sec. 149.011.** As used in this chapter: 6203
- (A) "Public office" includes any state agency, public 6204  
institution, political subdivision, or ~~any~~ other organized body, 6205  
office, agency, institution, or entity established by the laws of 6206  
this state for the exercise of any function of government. 6207
- (B) "State agency" includes every department, bureau, board, 6208

commission, office, or other organized body established by the 6209  
constitution and laws of this state for the exercise of any 6210  
function of state government, including any state-supported 6211  
institution of higher education, the general assembly, ~~or~~ any 6212  
legislative agency, any court or judicial agency, or any political 6213  
subdivision or agency ~~thereof~~ of a political subdivision. 6214

(C) "Public money" includes all money received or collected 6215  
by or due a public official, whether in accordance with or under 6216  
authority of any law, ordinance, resolution, or order, under color 6217  
of office, or otherwise. It also includes any money collected by 6218  
any individual on behalf of a public office or as a purported 6219  
representative or agent of the public office. 6220

(D) "Public official" includes all officers, employees, or 6221  
duly authorized representatives or agents of a public office. 6222

(E) "Color of office" includes any act purported or alleged 6223  
to be done under any law, ordinance, resolution, order, or other 6224  
pretension to official right, power, or authority. 6225

(F) "Archive" includes any public record that is transferred 6226  
to the state archives or other designated archival institutions 6227  
because of the historical information contained on it. 6228

(G) "Records" includes any document, device, or item, 6229  
regardless of physical form or characteristic, including an 6230  
electronic record as defined in section 1306.01 of the Revised 6231  
Code, created or received by or coming under the jurisdiction of 6232  
any public office of the state or its political subdivisions, 6233  
which serves to document the organization, functions, policies, 6234  
decisions, procedures, operations, or other activities of the 6235  
office. 6236

**Sec. 149.30.** The Ohio historical society, chartered by this 6237  
state as a corporation not for profit to promote a knowledge of 6238



history and archaeology, especially of Ohio, and operated 6239  
continuously in the public interest since 1885, may perform public 6240  
functions as prescribed by law. 6241

The general assembly may appropriate money to the Ohio 6242  
historical society each biennium to carry out the public functions 6243  
of the society as enumerated in this section. An appropriation by 6244  
the general assembly to the society constitutes an offer to 6245  
contract with the society to carry out those public functions for 6246  
which appropriations are made. An acceptance by the society of the 6247  
appropriated funds constitutes an acceptance by the society of the 6248  
offer and is considered an agreement by the society to perform 6249  
those functions in accordance with the terms of the appropriation 6250  
and the law and to expend the funds only for the purposes for 6251  
which appropriated. The governor may request on behalf of the 6252  
society, and the controlling board may release, additional funds 6253  
to the society for survey, salvage, repair, or rehabilitation of 6254  
an emergency nature for which funds have not been appropriated, 6255  
and acceptance by the society of those funds constitutes an 6256  
agreement on the part of the society to expend those funds only 6257  
for the purpose for which released by the controlling board. 6258

The society shall faithfully expend and apply all moneys 6259  
received from the state to the uses and purposes directed by law 6260  
and for necessary administrative expenses. The society shall 6261  
perform the public function of sending notice by certified mail to 6262  
the owner of any property at the time it is listed on the national 6263  
register of historic places. The society shall accurately record 6264  
all expenditures of such funds in conformity with generally 6265  
accepted accounting principles. 6266

The auditor of state shall audit all funds and fiscal records 6267  
of the society. 6268

The public functions to be performed by the Ohio historical 6269  
society shall include all of the following: 6270

(A) Creating, supervising, operating, protecting, 6271  
maintaining, and promoting for public use a system of state 6272  
memorials, titles to which may reside wholly or in part with this 6273  
state or wholly or in part with the society as provided in and in 6274  
conformity to appropriate acts and resolves of the general 6275  
assembly, and leasing for renewable periods of two years or less, 6276  
with the advice and consent of the attorney general and the 6277  
director of administrative services, lands and buildings owned by 6278  
the state which are in the care, custody, and control of the 6279  
society, all of which shall be maintained and kept for public use 6280  
at reasonable hours; 6281

(B) Making alterations and improvements, marking, and 6282  
constructing, reconstructing, protecting, or restoring structures, 6283  
earthworks, and monuments in its care, and equipping such 6284  
facilities with appropriate educational maintenance facilities; 6285

(C) Serving as the archives administration for the state and 6286  
its political subdivisions as provided in sections 149.31 to 6287  
149.42 of the Revised Code; 6288

(D) Administering a state historical museum, to be the 6289  
headquarters of the society and its principal museum and library, 6290  
which shall be maintained and kept for public use at reasonable 6291  
hours; 6292

(E) Establishing a marking system to identify all designated 6293  
historic and archaeological sites within the state and marking or 6294  
causing to be marked historic sites and communities considered by 6295  
the society to be historically or archaeologically significant; 6296

(F) Publishing books, pamphlets, periodicals, and other 6297  
publications about history, archaeology, and natural science and 6298  
~~supplying~~ offering one copy of each regular periodical issue to 6299  
all public libraries in this state ~~without charge~~ at a reasonable 6300  
price, which shall not exceed one hundred ten per cent more than 6301

the total cost of publication; 6302

(G) Engaging in research in history, archaeology, and natural 6303  
science and providing historical information upon request to all 6304  
state agencies; 6305

(H) Collecting, preserving, and making available by all 6306  
appropriate means and under approved safeguards all manuscript, 6307  
print, or near-print library collections and all historical 6308  
objects, specimens, and artifacts which pertain to the history of 6309  
Ohio and its people, including the following original documents: 6310  
Ohio Constitution of 1802; Ohio Constitution of 1851; proposed 6311  
Ohio Constitution of 1875; design and the letters of patent and 6312  
assignment of patent for the state flag; S.J.R. 13 (1873); S.J.R. 6313  
53 (1875); S.J.R. 72 (1875); S.J.R. 50 (1883); H.J.R. 73 (1883); 6314  
S.J.R. 28 (1885); H.J.R. 67 (1885); S.J.R. 17 (1902); S.J.R. 28 6315  
(1902); H.J.R. 39 (1902); S.J.R. 23 (1903); H.J.R. 19 (1904); 6316  
S.J.R. 16 (1905); H.J.R. 41 (1913); H.J.R. 34 (1917); petition 6317  
form (2) (1918); S.J.R. 6 (1921); H.J.R. 5 (1923); H.J.R. 40 6318  
(1923); H.J.R. 8 (1929); H.J.R. 20 (1929); S.J.R. 4 (1933); 6319  
petition form (2) (1933); S.J.R. 57 (1936); petition form (1936); 6320  
H.J.R. 14 (1942); H.J.R. 15 (1944); H.J.R. 8 (1944); S.J.R. 6 6321  
(1947); petition form (1947); H.J.R. 24 (1947); and H.J.R. 48 6322  
(1947); 6323

(I) Encouraging and promoting the organization and 6324  
development of county and local historical societies; 6325

(J) Providing to Ohio schools ~~with~~ such materials ~~at cost or~~ 6326  
~~near cost~~ as the society may prepare to facilitate the instruction 6327  
of Ohio history at a reasonable price, which shall not exceed one 6328  
hundred ten per cent more than the total cost of preparation and 6329  
delivery; 6330

(K) Providing advisory and technical assistance to local 6331  
societies for the preservation and restoration of historic and 6332

archaeological sites;	6333
(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;	6334 6335 6336
(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;	6337 6338 6339 6340 6341
(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;	6342 6343 6344 6345 6346 6347 6348 6349 6350
(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.	6351 6352 6353 6354 6355 6356 6357 6358 6359 6360
(P) Commissioning a portrait of each departing governor, which shall be displayed in the capitol building. The Ohio historical society may accept private contributions designated for	6361 6362 6363

this purpose and, at the discretion of its board of trustees, also 6364  
may apply for the same purpose funds appropriated by the general 6365  
assembly to the society pursuant to this section. 6366

(Q) Planning and developing a center at the capitol building 6367  
for the purpose of educating visitors about the history of Ohio, 6368  
including its political, economic, and social development and the 6369  
design and erection of the capitol building and its grounds. The 6370  
Ohio historical society may accept contributions of private moneys 6371  
and in-kind services designated for this purpose and may, at the 6372  
discretion of its board of trustees, also apply, for the same 6373  
purpose, personnel and other resources paid in whole or in part by 6374  
its state subsidy. 6375

(R) Submitting an annual report of its activities, programs, 6376  
and operations to the governor within two months after the close 6377  
of each fiscal year of the state. 6378

The society shall not sell, mortgage, transfer, or dispose of 6379  
historical or archaeological sites to which it has title and in 6380  
which the state has monetary interest except by action of the 6381  
general assembly. 6382

In consideration of the public functions performed by the 6383  
Ohio historical society for the state, employees of the society 6384  
shall be considered public employees within the meaning of section 6385  
145.01 of the Revised Code. 6386

**Sec. 149.31.** (A) The Ohio historical society, in addition to 6387  
its other functions, shall function as the state archives 6388  
administration for the state and its political subdivisions. 6389

It shall be the function of the state archives to preserve 6390  
government archives, documents, and records of historical value 6391  
~~which~~ that may come into its possession from public or private 6392  
sources. 6393

The archives administration shall evaluate, preserve, 6394  
arrange, service repair, or make other disposition, such as 6395  
transfer to public libraries, county historical societies, state 6396  
universities, or other public or quasi-public institutions, 6397  
agencies, or corporations, of those public records of the state 6398  
and its political subdivisions ~~which~~ that may come into its 6399  
possession under ~~the provisions of~~ this section. Such public 6400  
records shall be transferred by written agreement only, and only 6401  
to public or quasi-public institutions, agencies, or corporations 6402  
capable of meeting accepted archival standards for housing and 6403  
use. 6404

The archives administration shall be headed by a trained 6405  
archivist designated by the Ohio historical society, and shall 6406  
make its services available to county, city, township, and ~~school~~ 6407  
school district records commissions upon request. The archivist 6408  
shall be designated as the "state archivist." 6409

(B) The archives administration ~~of the Ohio historical~~ 6410  
~~society~~ may purchase or procure for itself, or authorize the board 6411  
of trustees of an archival institution to purchase or procure from 6412  
an insurance company licensed to do business in this state 6413  
policies of insurance insuring the administration or the members 6414  
of the board and their officers, employees, and agents against 6415  
liability on account of damage or injury to persons and property 6416  
resulting from any act or omission of the board members, officers, 6417  
employees, and agents in their official capacity. 6418

(C) Notwithstanding any other provision of the Revised Code 6419  
to the contrary, the archives administration may establish a fee 6420  
schedule, which may include the cost of labor, for researching, 6421  
retrieving, copying, and mailing copies of public records in the 6422  
state archives. Revisions to the fee schedule shall be subject to 6423  
approval by the board of trustees of the Ohio historical society. 6424

**Sec. 149.33.** (A) The department of administrative services 6425  
shall have full responsibility for establishing and administering 6426  
a state records program for all state agencies, except for 6427  
state-supported institutions of higher education. The department 6428  
shall apply efficient and economical management methods to the 6429  
creation, utilization, maintenance, retention, preservation, and 6430  
disposition of state records. 6431

There is hereby established within the department of 6432  
administrative services ~~an office of a~~ state records 6433  
~~administration program~~, which shall be under the control and 6434  
supervision of the director of administrative services or ~~his~~ the 6435  
director's appointed deputy. ~~The director shall designate an~~ 6436  
~~administrator of the office of state records administration.~~ 6437

(B) The boards of trustees of state-supported institutions of 6438  
higher education shall have full responsibility for establishing 6439  
and administering a records program for their respective 6440  
institutions. The boards shall apply efficient and economical 6441  
management methods to the creation, utilization, maintenance, 6442  
retention, preservation, and disposition of the records of their 6443  
respective institutions. 6444

**Sec. 149.331.** The state ~~record administration~~ records program 6445  
of the department of administrative services shall do all of the 6446  
following: 6447

(A) Establish and promulgate in consultation with the state 6448  
archivist standards, procedures, and techniques for the effective 6449  
management of state records; 6450

(B) ~~Make continuing surveys of record-keeping operations and~~ 6451  
~~recommend improvements in current records management practices~~ 6452  
~~including the use of space, equipment, and supplies employed in~~ 6453  
~~creating, maintaining, storing, and servicing records;~~ 6454

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

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

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

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

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

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



administrative records of the home required to be maintained by 6486  
approved records retention schedules shall be administered by the 6487  
department of administrative services pursuant to this chapter, 6488  
and historical records of the home shall be transferred to an 6489  
appropriate archival institution in this state prescribed by the 6490  
state ~~record administration~~ records program. 6491

~~(I)~~(F) Establish a centralized program coordinating 6492  
micrographics standards, training, and services for the benefit of 6493  
all state agencies; 6494

~~(J)~~(G) Establish and publish in accordance with the 6495  
applicable law necessary procedures and rules for the retention 6496  
and disposal of state records. 6497

This section does not apply to the records of state-supported 6498  
institutions of higher education, which shall keep their own 6499  
records. 6500

**Sec. 149.332.** Upon request the ~~state records administrator~~ 6501  
director of administrative services and the state archivist shall 6502  
assist and advise in the establishment of records management 6503  
programs in the legislative and judicial branches of state 6504  
government and shall, as required by them, provide program 6505  
services similar to those available to the executive branch 6506  
~~pursuant to~~ under section 149.33 of the Revised Code. Prior to the 6507  
disposal of any records, the state archivist shall be allowed 6508  
sixty days to select for preservation in the state archives those 6509  
records ~~he~~ the state archivist determines to have continuing 6510  
historical value. 6511

**Sec. 149.333.** No state agency shall retain, destroy, or 6512  
otherwise transfer its state records in violation of this section. 6513  
This section does not apply to state-supported institutions of 6514  
higher education. 6515

Each state agency shall submit to the state records 6516  
~~administrator~~ program under the director of administrative 6517  
services all applications for records disposal or transfer and all 6518  
schedules of records retention and destruction. The state records 6519  
~~administrator~~ program shall review ~~such~~ the applications and 6520  
schedules and provide written approval, rejection, or modification 6521  
of ~~the~~ an application or schedule. The state records ~~administrator~~ 6522  
program shall then forward the application for records disposal or 6523  
transfer or the schedule for retention or destruction, with the 6524  
~~administrator's~~ program's recommendation attached, to the auditor 6525  
of state for review and approval. The decision of the auditor of 6526  
state to approve, reject, or modify the ~~applications~~ application 6527  
or ~~schedules~~ schedule shall be based upon the continuing 6528  
administrative and fiscal value of the state records to the state 6529  
or to its citizens. If the auditor of state disapproves the action 6530  
by the state agency, ~~he~~ the auditor of state shall so inform the 6531  
state agency through the state records ~~administrator~~ program 6532  
within sixty days, ~~and these~~ the records shall not be destroyed. 6533  
~~At~~ 6534

At the same time, the state records ~~administrator~~ program 6535  
shall forward the application for records disposal or transfer or 6536  
the schedule for retention or destruction to the state archivist 6537  
for review and approval. The state archivist shall have sixty days 6538  
to select for custody ~~such~~ the state records ~~as he~~ that the state 6539  
archivist determines to be of continuing historical value. Records 6540  
not ~~so~~ selected shall be disposed of in accordance with this 6541  
section. 6542

**Sec. 149.34.** The head of each state agency, office, 6543  
institution, board, or commission shall do the following: 6544

(A) Establish, maintain, and direct an active continuing 6545  
program for the effective management of the records of the state 6546

agency; 6547

~~(B) Cooperate with the state records administrator in the 6548  
conduct of surveys pursuant to section 149.331 of the Revised 6549  
Code; 6550~~

~~(C)~~ Submit to the state records ~~administrator~~ program, in 6551  
accordance with applicable standards and procedures, schedules 6552  
proposing the length of time each record series warrants retention 6553  
for administrative, legal, or fiscal purposes after it has been 6554  
received or created by the agency. The head ~~of each state agency~~ 6555  
also shall submit to the state records ~~administrator~~ program 6556  
applications for disposal of records in ~~his~~ the head's custody 6557  
that are not needed in the transaction of current business and are 6558  
not otherwise scheduled for retention or destruction. 6559

~~(D) Transfer to a state records center or auxiliary 6560  
facilities, in the manner prescribed by the state records 6561  
administrator, those records of the agency that can be retained 6562  
more efficiently and economically in such a center; 6563~~

~~(E)~~(C) Within one year after their date of creation or 6564  
receipt, schedule all records for disposition or retention in the 6565  
manner prescribed by applicable law and procedures. 6566

This section does not apply to state-supported institutions 6567  
of higher education. 6568

**Sec. 149.35.** If any law prohibits the destruction of records, 6569  
~~neither the state records administrator nor~~ director of 6570  
administrative services, the director's designee, or the boards of 6571  
trustees of state-supported institutions of higher education shall 6572  
not order their destruction or other disposition, ~~and, if.~~ If any 6573  
law provides that records shall be kept for a specified period of 6574  
time, ~~neither the administrator nor~~ director of administrative 6575  
services, the director's designee, or the boards shall not order 6576

their destruction or other disposition prior to the expiration of 6577  
~~such~~ that period. 6578

**Sec. 153.65.** As used in sections 153.65 to 153.71 of the 6579  
Revised Code: 6580

(A) "Public authority" means the state, ~~or~~ a county, 6581  
township, municipal corporation, school district, or other 6582  
political subdivision, or any public agency, authority, board, 6583  
commission, instrumentality, or special district of the state or a 6584  
county, township, municipal corporation, school district, or other 6585  
political subdivision. 6586

(B) "Professional design firm" means any person legally 6587  
engaged in rendering professional design services. 6588

(C) "Professional design services" means services within the 6589  
scope of practice of an architect or landscape architect 6590  
registered under Chapter 4703. of the Revised Code or a 6591  
professional engineer or surveyor registered under Chapter 4733. 6592  
of the Revised Code. 6593

(D) "Qualifications" means all of the following: 6594

(1) Competence of the professional design firm to perform the 6595  
required professional design services as indicated by the 6596  
technical training, education, and experience of the firm's 6597  
personnel, especially the technical training, education, and 6598  
experience of the employees within the firm who would be assigned 6599  
to perform the services; 6600

(2) Ability of the firm in terms of its workload and the 6601  
availability of qualified personnel, equipment, and facilities to 6602  
perform the required professional design services competently and 6603  
expeditiously; 6604

(3) Past performance of the firm as reflected by the 6605  
evaluations of previous clients with respect to such factors as 6606

control of costs, quality of work, and meeting of deadlines; 6607

(4) ~~Other similar~~ Any other relevant factors as determined by 6608  
the director of administrative services. 6609

**Sec. 164.27.** (A) The clean Ohio conservation fund is hereby 6610  
created in the state treasury. Seventy-five per cent of the net 6611  
proceeds of obligations issued and sold by the issuing authority 6612  
pursuant to sections 151.01 and 151.09 of the Revised Code shall 6613  
be deposited into the fund. Investment earnings of the fund shall 6614  
be credited to the fund. ~~For two years after the effective date of~~ 6615  
~~this section, investment earnings credited to the fund and~~ 6616  
used to pay costs incurred by the Ohio public works commission in 6617  
administering sections 164.20 to 164.27 of the Revised Code. 6618  
Moneys in the clean Ohio conservation fund shall be used to make 6619  
grants to local political subdivisions and nonprofit organizations 6620  
for projects that have been approved for grants under sections 6621  
164.20 to 164.27 of the Revised Code. 6622

The clean Ohio conservation fund shall be administered by the 6623  
Ohio public works commission. 6624

(B) For the purpose of grants issued under sections 164.20 to 6625  
164.27 of the Revised Code, moneys shall be allocated on an annual 6626  
basis from the clean Ohio conservation fund to districts 6627  
represented by natural resources assistance councils as follows: 6628

(1) Each district shall receive an amount that is equal to 6629  
one-fourth of one per cent of the total annual amount allocated to 6630  
all districts each year for each county that is represented by the 6631  
district. 6632

(2) The remaining moneys shall be allocated to each district 6633  
annually on a per capita basis. 6634

(C) A grant that is awarded under sections 164.20 to 164.27 6635  
of the Revised Code may provide up to seventy-five per cent of the 6636

estimated cost of a project. Matching funds from a grant recipient 6637  
may consist of contributions of money by any person, any local 6638  
political subdivision, or the federal government or of 6639  
contributions in-kind by such entities through the purchase or 6640  
donation of equipment, land, easements, interest in land, labor, 6641  
or materials necessary to complete the project. 6642

(D) The director of the Ohio public works commission shall 6643  
notify the director of budget and management of the amounts 6644  
allocated pursuant to this section, and that information shall be 6645  
entered in the state accounting system. The director of budget and 6646  
management may establish appropriate line items or other 6647  
mechanisms that are needed to track the allocations. 6648

(E) Grants awarded under sections 164.20 to 164.27 of the 6649  
Revised Code from the clean Ohio conservation fund shall be used 6650  
by a local political subdivision or nonprofit organization only to 6651  
pay the costs related to the purposes for which grants may be 6652  
issued under section 164.22 of the Revised Code and shall not be 6653  
used by a local political subdivision or nonprofit organization to 6654  
pay any administrative costs incurred by the local political 6655  
subdivision or nonprofit organization. 6656

**Sec. 165.09.** Any real or personal property, or both, of an 6657  
issuer ~~which~~ that is acquired, constructed, reconstructed, 6658  
enlarged, improved, furnished or equipped, or any combination 6659  
thereof, and leased or subleased under authority of either Chapter 6660  
165. or 761. of the Revised Code shall be subject to ad valorem, 6661  
sales, use, and franchise taxes and to zoning, planning, and 6662  
building regulations and fees, to the same extent and in the same 6663  
manner as if the lessee-user or sublessee-user thereof, rather 6664  
than the issuer, had acquired, constructed, reconstructed, 6665  
enlarged, improved, furnished, or equipped, or any combination 6666  
thereof, such real or personal property, and title thereto was in 6667

the name of such lessee-user or sublessee-user. 6668

The transfer of tangible personal property by lease or 6669  
sublease under authority of either Chapter 165. or 761. of the 6670  
Revised Code is not a sale as used in Chapter 5739. of the Revised 6671  
Code. The exemptions provided in divisions (B)(1) and (B)~~(14)~~(13) 6672  
of section 5739.02 of the Revised Code shall not be applicable to 6673  
purchases for a project under either Chapters 165. or 761. of the 6674  
Revised Code. 6675

An issuer shall be exempt from all taxes on its real or 6676  
personal property, or both, which has been acquired, constructed, 6677  
reconstructed, enlarged, improved, furnished, or equipped, or any 6678  
combination thereof, under Chapter 165. or 761. of the Revised 6679  
Code, so long as such property is used by the issuer for purposes 6680  
which would otherwise exempt such property; has ceased to be used 6681  
by a former lessee-user or sublessee-user and is not occupied or 6682  
used; or has been acquired by the issuer, but development has not 6683  
yet commenced. The exemption shall be effective as of the date the 6684  
exempt use begins. All taxes on the exempt real or personal 6685  
property for the year should be prorated and the taxes for the 6686  
exempt portion of the year shall be remitted by the county 6687  
auditor. 6688

**Sec. 173.06.** (A) The director of aging shall establish a 6689  
golden buckeye card program and provide a golden buckeye card to 6690  
any resident of this state who applies to the director for a card 6691  
and ~~who~~ is sixty years of age or older or ~~disabled~~ is a person 6692  
with a disability and is eighteen years of age or older. The 6693  
director shall devise programs to provide benefits of any kind to 6694  
card holders, and encourage support and participation in them by 6695  
all persons, including governmental organizations. Card holders 6696  
shall be entitled to any benefits granted to them by private 6697  
persons or organizations, the laws of this state, or ordinances or 6698

resolutions of political subdivisions. This section does not 6699  
require any person or organization to provide benefits to any card 6700  
holder. The department of aging shall bear all costs of the 6701  
program, except that the department is not required to bear any 6702  
costs related to the prescription drug ~~discount~~ programs 6703  
established pursuant to section 173.061 of the Revised Code. 6704

(B) Before issuing a golden buckeye card to any person, the 6705  
director shall establish the identity of any person who applies 6706  
for a card and shall ascertain that such person is sixty years of 6707  
age or older or ~~disabled~~ is a person with a disability and is 6708  
eighteen years of age or older. The director shall adopt rules 6709  
under Chapter 119. of the Revised Code to prevent the issuance of 6710  
cards to persons not qualified to have them. Cards shall contain 6711  
the signature of the card holder and any other information the 6712  
director considers necessary to carry out the purposes of the 6713  
golden buckeye card program under this section. Any card that the 6714  
director issues shall be held in perpetuity by the original card 6715  
holder and shall not be transferable to any other person. A person 6716  
who loses the person's card may obtain another card from the 6717  
director upon providing the same information to the director as 6718  
was required for the issuance of the original card. 6719

(C) No person shall use a golden buckeye card except to 6720  
obtain a benefit for the holder of the card to which the holder is 6721  
entitled under the conditions of the offer. 6722

(D) As used in this section, "~~disabled~~ person with a 6723  
disability" means a person who has some impairment of body or mind 6724  
~~that makes the person unfit to work at any substantially~~ 6725  
~~remunerative employment that the person is substantially able to~~ 6726  
~~perform and that will, with reasonable probability, continue for a~~ 6727  
~~period of at least twelve months without any present indication of~~ 6728  
~~recovery therefrom, or who and has been certified as permanently~~ 6729  
and totally disabled by an agency of this state or the United 6730



States having the function of so classifying persons. 6731

**Sec. 173.061.** (A) As used in this section: 6732

(1) "Prescription drug" means a drug that may not be 6733  
dispensed without a prescription from a licensed health 6734  
professional authorized to prescribe drugs. 6735

(2) "Drug," "licensed health professional authorized to 6736  
prescribe drugs," "pharmacy," and "prescription" have the same 6737  
meanings as in section 4729.01 of the Revised Code. 6738

(3) "~~Disabled person~~ Person with a disability" has the same 6739  
meaning as in section 173.06 of the Revised Code. 6740

(4) "Drug discount" means a reimbursement of a certain 6741  
portion of the wholesale price of a drug to the administrator of a 6742  
prescription drug program for funds accrued or paid in connection 6743  
with a reduction in cost of the drug by the manufacturer to the 6744  
prescription drug program cardholder pursuant to an agreement 6745  
between the manufacturer and the administrator and in 6746  
consideration of the administrator's agreement to return one 6747  
hundred per cent of the non-negotiated discounts to the cardholder 6748  
at the point of sale. A discount is not tied to and does not vary 6749  
based on market share performance. 6750

(5) "Rebate" means a refund of a certain portion of the 6751  
wholesale price of a drug to the administrator of a prescription 6752  
drug program based on a negotiated agreement between the 6753  
manufacturer and the administrator and in consideration of market 6754  
share performance or continued access or availability of the drug 6755  
under the administrator's prescription drug program. 6756

(B) The director of aging shall establish one or more 6757  
prescription drug ~~discount-card~~ programs that enable cardholders 6758  
to receive ~~discounts~~ reduced prices on prescription drugs 6759  
dispensed at participating pharmacies. A card shall be provided to 6760

any resident of this state who applies in accordance with rules 6761  
adopted by the director pursuant to division (F) of this section 6762  
and is sixty years of age or older or is a ~~disabled~~ person with a 6763  
disability. 6764

If the director establishes more than one prescription drug 6765  
~~discount card~~ program under this section, an eligible resident may 6766  
participate in one or more or all of the programs. 6767

(C)(1) The director shall solicit and accept proposals from 6768  
entities separate from the department of aging to provide for 6769  
administration of a program or programs in accordance with rules 6770  
adopted under division (F) of this section. Proposals must be 6771  
submitted not later than a date established by the director. The 6772  
director shall accept only those proposals that specify all of the 6773  
following: 6774

(a) The estimated amount of the ~~discount~~ reduced prices on 6775  
prescription drugs based on the entity's previous experience and 6776  
how the ~~discount~~ reduction is to be achieved; 6777

(b) To the extent that ~~discounts on prescription drugs are to~~ 6778  
~~be achieved through rebates or discounts in prices that the an~~ 6779  
entity negotiates rebates with drug manufacturers, the proportion 6780  
of the rebates ~~or discounts~~ to be used to do ~~all~~ any of the 6781  
following: 6782

(i) Reduce any costs to cardholders; 6783

(ii) ~~Achieve discounts for cardholders;~~ 6784

~~(iii) Cover costs for administering the program;~~ 6785

(iii) Offer any other benefits to cardholders. 6786

(c) Any other benefits offered to cardholders; 6787

(d) If fees are permitted, the fee, if any, to cardholders 6788  
for participation in the program and whether the fee is to be a 6789  
one-time or periodic fee; 6790

(e) The estimated number and geographic distribution of participating pharmacies and the process for establishing the program's pharmacy network;	6791 6792 6793
(f) Financial incentives to be paid to participating pharmacies by the entity;	6794 6795
(g) The percentage of prescription drugs to be covered by the program by major drug category;	6796 6797
(h) How the entity proposes to improve medication management for cardholders;	6798 6799
(i) How cardholders and participating pharmacies will be informed of the <del>discounted</del> <u>reduced</u> price negotiated by the entity;	6800 6801
(j) How the entity will handle complaints about the program's operation;	6802 6803
(k) The entity's previous experience in managing similar programs;	6804 6805
(1) Any additional information requested by the director.	6806
(2) The director shall contract with one or more entities to administer a program or programs on the basis of the proposals submitted, but may require an administrator to modify its conduct of a program in accordance with rules adopted under division (F) of this section. Prior to entering into a contract with an entity, the director shall obtain approval of the contract from the controlling board at a public hearing.	6807 6808 6809 6810 6811 6812 6813
The director shall adopt rules specifying the period for which a contract will be in effect and may terminate a contract if an administrator fails to conduct a program in accordance with its proposal or with any modifications required by rule. When a contract period ends or a contract is terminated, the director shall enter into a new contract in the manner specified in this section for an original contract. Prior to making a new contract,	6814 6815 6816 6817 6818 6819 6820

the director may modify the rules for administration of the 6821  
program or programs. 6822

(D) The rules for administration of a program established 6823  
under division (C)(2) of this section may permit an administrator 6824  
to charge a fee for a prescription drug ~~discount~~ card. The fee may 6825  
be a one-time or periodic fee. If the rules permit a fee to be 6826  
charged, each entity that submits a proposal under which a fee 6827  
will be charged shall specify the amount of the fee and the period 6828  
to which the fee will apply. 6829

If an administrator charges a fee for a prescription drug 6830  
~~discount~~ card, the rules may require the administrator to issue 6831  
the cards. If an administrator does not charge a fee, the rules 6832  
may require the administrator to issue the cards or may include 6833  
the prescription drug ~~discount~~ information on golden buckeye cards 6834  
issued under section 173.06 of the Revised Code. 6835

(E) As used in this division, "administrator" includes the 6836  
administrator's parent company and any subsidiary of the parent 6837  
company. 6838

(1) No administrator shall sell any information concerning a 6839  
person who holds a prescription drug ~~discount~~ card, other than 6840  
aggregate information that does not identify the cardholder, 6841  
without the cardholder's written consent. 6842

(2) Unless an administrator has the cardholder's written 6843  
consent, no administrator shall use any personally identifiable 6844  
information that it obtains concerning a cardholder through the 6845  
program to promote or sell a program or product offered by the 6846  
administrator that is not related to the administration of the 6847  
program. This division does not prohibit an administrator from 6848  
contacting cardholders concerning participation in or 6849  
administration of the program, including, but not limited to, 6850  
mailing a list of pharmacies participating in the program's 6851

network. 6852

(3) When determining medicaid drug rebates, an administrator shall be subject to best price calculations promulgated by the centers for medicare and medicaid services in the United States department of health and human services. An administrator may use rebates negotiated with a drug manufacturer without restriction, including sharing a portion of the rebate with the administrator's clients, prescription drug program participants, or participating pharmacies. To the extent that ~~a discount is achieved through rebates or discounts in prices that~~ an administrator negotiates rebates with drug manufacturers, ~~an~~ the administrator shall use the rebates ~~or discounts~~ to do one or more of the following: 6853  
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(a) Reduce any costs to cardholders; 6864

(b) ~~Achieve discounts for cardholders;~~ 6865

~~(e)~~ Cover any administrative costs of the program; 6866

(c) Offer any other benefits to cardholders. 6867

(4) An administrator may negotiate with drug manufacturers to have the prescription drug program or programs established by the department of aging under this section serve as a single enrollment point for the manufacturer's discount program. To the extent that discounts are offered by manufacturers through the program, discounts are exempt from best price calculations when determining medicaid drug rebates pursuant to 42 U.S.C. 1396r-8, as amended, if all of the following apply: 6868  
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(a) The manufacturer's program provides prescription drug assistance to a limited group of persons without negotiations between the manufacturer and a third party regarding the amount of assistance. 6876  
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(b) The manufacturer establishes the amount of the benefit to be given to persons without negotiations between the manufacturer 6880  
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and a third party regarding the amount of the benefit. 6882

(c) The entire amount of the discount is used to benefit an individual without providing an opportunity for the administrator, participating pharmacies, or any other third party to reduce or take for its use a portion of the benefit. 6883  
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(d) A participating pharmacy is reimbursed based on the lower of a calculated formula equal to the average wholesale price less a defined percentage plus a dispensing fee, or the pharmacy's usual and customary price for the drug. 6887  
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(e) Other than the benefit amount, a participating pharmacy collects no additional payment from the manufacturer's discount program. 6891  
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(5) To the extent that drug discounts on prescription drugs are achieved through reduced prices an administrator obtains from drug manufacturers, the administrator shall use the drug discounts to reduce prescription drug costs for cardholders. 6894  
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(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following: 6898  
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(1) Specify how a resident may apply to participate in any one or more prescription drug discount card programs; 6900  
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(2) Provide for the administration of each program; 6902

(3) Specify the circumstances under which the director may require an administrator to modify its conduct of a program; 6903  
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(4) Specify the duration of a contract; 6905

(5) Specify whether an administrator may charge a fee for a card and whether an administrator is required to issue the cards; 6906  
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(6) Require that an administrator permit any pharmacy willing to comply with the administrator's terms and conditions for participation in the program's network to participate in any network used by the administrator for its program; 6908  
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(7) Prohibit an administrator from requiring a pharmacy or drug manufacturer to participate in the program's network as a condition of participation in another network operated by the administrator;

(8) Permit an administrator to work with one or more drug manufacturers to obtain drug discounts;

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

~~(9)~~(10) Permit an administrator to receive any rebate payments from drug manufacturers;

~~(10)~~(11) Require that an administrator create a financial incentive program for participating pharmacies through which the administrator shall distribute a portion of any rebate payments from drug manufacturers received under division (F)~~(9)~~(10) of this section.

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

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

prescription drug utilization history. 6942

**Sec. 173.07.** Not later than four months after the end of each 6943  
twelve-month period that one or more prescription drug ~~discount~~ 6944  
~~card~~ programs established under section 173.061 of the Revised 6945  
Code are in operation, the director of aging shall issue a report 6946  
on the operation of each program during that twelve-month period. 6947

**Sec. 173.071.** Each report issued under section 173.07 of the 6948  
Revised Code shall be based on information received by the 6949  
director of aging from each administrator under division (G) of 6950  
section 173.061 of the Revised Code and specify all of the 6951  
following about each program: 6952

(A) The number of prescription drug ~~discount~~ cardholders; 6953

(B) The number of cardholders who used the card at least once 6954  
in the immediately preceding twelve-month period; 6955

(C) The total cost savings to all cardholders generated by 6956  
the program; 6957

(D) The average cost savings to a cardholder per 6958  
prescription; 6959

(E) The source and method of cost savings under the program; 6960

(F) The drugs that are discounted under the program listed 6961  
according to major drug category; 6962

(G) The drugs for which rebates are offered under the 6963  
program, listed according to major drug category; 6964

(H) For each participating pharmacy, the number of times in 6965  
the twelve-month period that the pharmacy's customary and usual 6966  
price was lower than the price offered under the prescription drug 6967  
~~discount~~ program; 6968

~~(H)~~(I) The name of the program's administrator; 6969



~~(I)~~(J) The length of the contract between the director and the program's administrator; 6970  
6971

~~(J)~~(K) The number of pharmacies participating in the program; 6972

~~(K)~~(L) Other than the cost of prescription drugs, any fees paid by cardholders to participate in the program; 6973  
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~~(L)~~(M) Any costs incurred by the state to operate the program; 6975  
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~~(M)~~(N) Any costs incurred by participating pharmacies to participate in the program. 6977  
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**Sec. 173.08.** (A) The resident services coordinator program is established in the department of aging to fund resident services coordinators. The coordinators shall provide information to low-income and special-needs tenants, including the elderly, who live in subsidized rental housing complexes, and assist those tenants in identifying and obtaining community and program services and other benefits for which they are eligible. 6979  
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(B) The resident services coordinator program fund is hereby created in the state treasury to support the resident services coordinator program established pursuant to this section. The fund consists of all moneys the department of development sets aside pursuant to division (A)(4) of section 175.21 of the Revised Code and moneys the general assembly appropriates to the fund. 6986  
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**Sec. 173.14.** As used in sections 173.14 to 173.26 of the Revised Code: 6992  
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(A)(1) Except as otherwise provided in division (A)(2) of this section, "long-term care facility" includes any residential facility that provides personal care services for more than twenty-four hours for two or more unrelated adults, including all of the following: 6994  
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(a) A "nursing home," "residential care facility," or "home for the aging" as defined in section 3721.01 of the Revised Code;	6999 7000
(b) A facility authorized to provide extended care services under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended;	7001 7002 7003
(c) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;	7004 7005
(d) An "adult care facility" as defined in section 3722.01 of the Revised Code;	7006 7007
(e) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans;	7008 7009 7010 7011
(f) An adult foster home certified under section 173.36 of the Revised Code.	7012 7013
(2) "Long-term care facility" does not include a "residential facility" as defined in section 5119.22 of the Revised Code or a "residential facility" as defined in section 5123.19 of the Revised Code.	7014 7015 7016 7017
(B) "Resident" means a resident of a long-term care facility and, where appropriate, includes a prospective, previous, or deceased resident of a long-term care facility.	7018 7019 7020
(C) "Community-based long-term care services" means health and social services provided to persons <del>age sixty or older</del> in their own homes or in community care settings, and includes any of the following:	7021 7022 7023 7024
(1) Case management;	7025
(2) Home health care;	7026
(3) Homemaker services;	7027

(4) Chore services;	7028
(5) Respite care;	7029
(6) Adult day care;	7030
(7) Home-delivered meals;	7031
(8) Personal care;	7032
(9) Physical, occupational, and speech therapy;	7033
(10) Any other health and social services provided to persons	7034
<del>age sixty or older</del> that allow them to retain their independence in	7035
their own homes or in community care settings.	7036
(D) "Recipient" means a recipient of community-based	7037
long-term care services and, where appropriate, includes a	7038
prospective, previous, or deceased recipient of community-based	7039
long-term care services.	7040
(E) "Sponsor" means an adult relative, friend, or guardian	7041
who has an interest in or responsibility for the welfare of a	7042
resident or a recipient.	7043
(F) "Personal care services" has the same meaning as in	7044
section 3721.01 of the Revised Code.	7045
(G) "Regional long-term care ombudsperson program" means an	7046
entity, either public or private and nonprofit, designated as a	7047
regional long-term care ombudsperson program by the state	7048
long-term care ombudsperson.	7049
(H) "Representative of the office of the state long-term care	7050
ombudsperson program" means the state long-term care ombudsperson	7051
or a member of the ombudsperson's staff, or a person certified as	7052
a representative of the office under section 173.21 of the Revised	7053
Code.	7054
(I) "Area agency on aging" means an area agency on aging	7055
established under the "Older Americans Act of 1965," 79 Stat. 219,	7056

42 U.S.C.A. 3001, as amended. 7057

**Sec. 173.26.** (A) Each of the following facilities shall 7058  
annually pay to the department of aging ~~three~~ six dollars for each 7059  
bed maintained by the facility for use by a resident during any 7060  
part of the previous year: 7061

(1) Nursing homes, residential care facilities, and homes for 7062  
the aging as defined in section 3721.01 of the Revised Code; 7063

(2) Facilities authorized to provide extended care services 7064  
under Title XVIII of the "Social Security Act," 49 Stat. 620 7065  
(1935), 42 U.S.C. 301, as amended; 7066

(3) County homes and district homes operated pursuant to 7067  
Chapter 5155. of the Revised Code; 7068

(4) Adult care facilities as defined in section 3722.01 of 7069  
the Revised Code; 7070

(5) ~~Adult foster homes certified under section 173.36 of the~~ 7071  
~~Revised Code;~~ 7072

~~(6)~~ Facilities approved by the Veterans Administration under 7073  
Section 104(a) of the "Veterans Health Care Amendments of 1983," 7074  
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 7075  
the placement and care of veterans. 7076

The department shall, by rule adopted ~~under section 111.15 in~~ 7077  
accordance with Chapter 119. of the Revised Code, establish 7078  
deadlines for payments required by this section. 7079

(B) All money collected under this section shall be deposited 7080  
in the state treasury to the credit of the office of the state 7081  
long-term care ~~ombudsman~~ ombudsperson program fund, which is 7082  
hereby created. Money credited to the fund shall be used solely to 7083  
pay the costs of operating the regional long-term care ~~ombudsman~~ 7084  
ombudsperson programs. 7085

(C) The state long-term care ~~ombudsman~~ ombudsperson and the 7086  
regional programs may solicit and receive contributions to support 7087  
the operation of the office or a regional program, except that no 7088  
contribution shall be solicited or accepted that would interfere 7089  
with the independence or objectivity of the office or program. 7090

**Sec. 175.03.** (A)(1) The Ohio housing finance agency shall 7091  
consist of eleven members. Nine of the members shall be appointed 7092  
by the governor with the advice and consent of the senate. The 7093  
director of commerce and the director of development, or their 7094  
respective designees, shall also be voting members of the agency. 7095  
Of the nine appointed members, at least one shall have experience 7096  
in residential housing construction; at least one shall have 7097  
experience in residential housing mortgage lending, loan 7098  
servicing, or brokering; at least one shall have experience in the 7099  
licensed residential housing brokerage business; at least one 7100  
shall have experience with the housing needs of senior citizens; 7101  
at least one shall be from a background in labor representation in 7102  
the construction industry; at least one shall represent the 7103  
interests of nonprofit multifamily housing development 7104  
corporations; at least one shall represent the interests of 7105  
for-profit multifamily housing development organizations; and two 7106  
shall be public members. The governor shall receive 7107  
recommendations from the Ohio housing council for appointees to 7108  
represent the interests of nonprofit multifamily housing 7109  
development corporations and for-profit multifamily housing 7110  
development organizations. Each appointee representing multifamily 7111  
housing interests currently shall be employed with an organization 7112  
that is active in the area of affordable housing development or 7113  
management. No more than six of the appointed members of the 7114  
agency shall be of the same political party. Of the appointments 7115  
made to the agency for the eighth and ninth appointed members in 7116  
accordance with this amendment, one shall be for a term ending on 7117

January 31, 2005, and one shall be for a term ending on January 7118  
31, 2006. Thereafter, each appointed member shall serve for a term 7119  
ending on the thirty-first day of January which is six years 7120  
following the date of termination of the term which it succeeds. 7121  
Each member shall hold office from the date of the member's 7122  
appointment until the end of the term for which the member was 7123  
appointed. Any member appointed to fill a vacancy occurring prior 7124  
to the expiration of the term for which the member's predecessor 7125  
was appointed shall hold office for the remainder of such term. 7126  
Any appointed member shall continue in office subsequent to the 7127  
expiration date of the member's term until the member's successor 7128  
takes office, or until a period of sixty days has elapsed, 7129  
whichever occurs first. Each appointed member may be removed from 7130  
office by the governor for misfeasance, nonfeasance, malfeasance 7131  
in office, or for failure to attend in person three consecutive 7132  
meetings of the agency. 7133

(2) The ~~director of development or the director's designee~~ 7134  
governor shall ~~be~~ appoint the chairperson of the agency. The 7135  
agency shall elect one of its ~~appointed~~ members as 7136  
vice-chairperson and such other officers as it deems necessary, 7137  
who need not be members of the agency. Each appointed member of 7138  
the agency shall receive compensation at the rate of one hundred 7139  
fifty dollars per agency meeting attended in person, not to exceed 7140  
a maximum of three thousand dollars per year. All members shall be 7141  
reimbursed for their actual and necessary expenses incurred in the 7142  
discharge of their official duties. 7143

(3) Six members of the agency constitute a quorum, and the 7144  
affirmative vote of six members shall be necessary for any action 7145  
taken by the agency. No vacancy in membership of the agency 7146  
impairs the right of a quorum to exercise all the rights and 7147  
perform all the duties of the agency. Meetings of the agency may 7148  
be held at any place within the state. Meetings of the agency, 7149

including notice of the place of meetings, shall comply with 7150  
section 121.22 of the Revised Code. 7151

(B)(1) The appointed members of the agency are not subject to 7152  
section 102.02 of the Revised Code. Each such appointed member 7153  
shall file with the agency a signed written statement setting 7154  
forth the general nature of sales of goods, property or services 7155  
or of loans to the agency in which such member has a pecuniary 7156  
interest or in which any member of the member's immediate family, 7157  
as defined in section 102.01 of the Revised Code, or any 7158  
corporation, partnership or enterprise of which the member is an 7159  
officer, director, or partner, or of which the member or a member 7160  
of the member's immediate family, as so defined, owns more than a 7161  
five per cent interest, has a pecuniary interest, and of which 7162  
sale, loan and interest such member has knowledge. The statement 7163  
shall be supplemented from time to time to reflect changes in the 7164  
general nature of any such sales or loans. No member shall 7165  
participate in portions of agency meetings dealing with, or vote 7166  
concerning, any such matter. 7167

(2) The requirements of this section pertaining to disclosure 7168  
and prohibition from participation and voting do not apply to 7169  
agency loans to lending institutions or contracts between the 7170  
agency and lending institutions for the purchase, administration, 7171  
or servicing of loans notwithstanding that such lending 7172  
institution has a director, officer, employee, or owner who is a 7173  
member of the agency, and no such loans or contracts shall be 7174  
deemed to be prohibited or otherwise regulated by reason of any 7175  
other law or rule. 7176

(3) The members of the agency representing multifamily 7177  
housing interests are not in violation of division (A) of section 7178  
2921.42, division (D) of section 102.03, or division (E) of 7179  
section 102.03 of the Revised Code in regard to a contract the 7180  
agency enters into if both of the following apply: 7181

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

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

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

(1) Not more than six per cent of any current year appropriation authority for the fund shall be used for the transitional and permanent housing program to make grants to municipal corporations, counties, townships, and nonprofit organizations for the acquisition, rehabilitation, renovation,



construction, conversion, operation, and cost of supportive 7213  
services for new and existing transitional and permanent housing 7214  
for homeless persons. 7215

(2)(a) Not more than five per cent of any current year 7216  
appropriation authority for the fund shall be used for grants and 7217  
loans to community development corporations and the Ohio community 7218  
development finance fund, a private nonprofit corporation. 7219

(b) In any year in which the amount in the fund exceeds one 7220  
hundred thousand dollars, not less than one hundred thousand 7221  
dollars shall be used to provide training, technical assistance, 7222  
and capacity building assistance to nonprofit development 7223  
organizations in areas of the state the director designates as 7224  
underserved. 7225

(c) For monies awarded in any fiscal year, priority shall be 7226  
given to proposals submitted by nonprofit development 7227  
organizations from areas of the state the director designates as 7228  
underserved. 7229

(3) Not more than seven per cent of any current year 7230  
appropriation authority for the fund shall be used for the 7231  
emergency shelter housing grants program to make grants to 7232  
private, nonprofit organizations and municipal corporations, 7233  
counties, and townships for emergency shelter housing for the 7234  
homeless. The grants shall be distributed pursuant to rules the 7235  
director adopts and qualify as matching funds for funds obtained 7236  
pursuant to the McKinney Act, 101 Stat. 85 (1987), 42 U.S.C.A. 7237  
11371 to 11378. 7238

(4) In any fiscal year in which the amount in the fund 7239  
exceeds the amount awarded pursuant to division (A)(2)(b) of this 7240  
section by at least two hundred fifty thousand dollars, at least 7241  
two hundred fifty thousand dollars from the fund shall be provided 7242  
to the department of aging for the resident services coordinator 7243

program. 7244

(5) Of all money in the fund: 7245

(a) Not more than five per cent shall be used for 7246  
administration. 7247

(b) Not less than forty-five per cent of the ~~amount of~~ funds 7248  
awarded during any one fiscal year shall be ~~used to make for~~ 7249  
grants and loans to nonprofit organizations under section 175.22 7250  
of the Revised Code, ~~not.~~ 7251

(c) Not less than fifty per cent of the ~~amount of~~ funds 7252  
awarded during any one fiscal year, excluding the amounts awarded 7253  
pursuant to divisions (A)(1), (A)(2), and (A)(3) of this section, 7254  
shall be ~~used to make for~~ grants and loans for activities that 7255  
~~will~~ provide housing and housing assistance to families and 7256  
individuals in rural areas and small cities that ~~would~~ are not be 7257  
eligible to participate as a participating jurisdiction under the 7258  
"HOME Investment Partnerships Act," 104 Stat. 4094 (1990), 42 7259  
U.S.C. 12701 note, 12721, ~~no more than five per cent of the money~~ 7260  
~~in the fund shall be used for administration, and no.~~ 7261

(d) No money in the fund shall be used to pay for any legal 7262  
services other than the usual and customary legal services 7263  
associated with the acquisition of housing. 7264

(6) Except as otherwise provided by the director under 7265  
division (B) of this section, money in the fund may be used as 7266  
matching money for federal funds received by the state, counties, 7267  
municipal corporations, and townships for the activities listed in 7268  
section 175.22 of the Revised Code. 7269

(B) If after the second quarter of any year it appears to the 7270  
director that the full amount of the money in the ~~low and~~ 7271  
~~moderate income housing trust~~ fund designated in that year for 7272  
activities that ~~will~~ provide housing and housing assistance to 7273  
families and individuals in rural areas and small cities under 7274

division (A) of this section will not be ~~se~~ used for that purpose, 7275  
the director may reallocate all or a portion of that amount for 7276  
other housing activities. In determining whether or how to 7277  
reallocate money under this division, the director may consult 7278  
with and shall receive advice from the housing trust fund advisory 7279  
committee. 7280

**Sec. 175.22.** (A) The department of development and the Ohio 7281  
housing finance agency shall each develop programs under which, in 7282  
accordance with rules adopted under this section, ~~it~~ they may make 7283  
grants, loans, loan guarantees, and loan subsidies to counties, 7284  
municipal corporations, townships, local housing authorities, and 7285  
nonprofit organizations and may make loans, loan guarantees, and 7286  
loan subsidies to private developers and private lenders to assist 7287  
~~them~~ in activities that ~~will~~ provide housing and housing 7288  
assistance for specifically targeted low- and moderate-income 7289  
families and individuals. There ~~shall be~~ is no minimum housing 7290  
project size for awards under this division for any project that 7291  
is ~~being~~ developed for a special needs population and that is 7292  
supported by a social service agency where the housing project 7293  
~~will be~~ is located. Activities for which grants, loans, loan 7294  
guarantees, and loan subsidies may be made under this section 7295  
include all of the following: 7296

(1) Acquiring, financing, constructing, leasing, 7297  
rehabilitating, remodeling, improving, and equipping publicly or 7298  
privately owned housing; 7299

(2) Providing supportive services related to housing and the 7300  
homeless, including housing counseling. Not more than twenty per 7301  
cent of the current year appropriation authority for the low- and 7302  
moderate-income housing trust fund that remains after the 7303  
expenditures made pursuant to divisions (A)(1), (A)(2), and (A)(3) 7304  
of section 175.21 of the Revised Code, shall be awarded in any 7305

fiscal year for ~~such~~ supportive services. 7306

(3) Providing rental assistance payments or other project 7307  
operating subsidies that lower tenant rents. 7308

(B) Grants, loans, loan guarantees, and loan subsidies may be 7309  
made to counties, municipal corporations, townships, and nonprofit 7310  
organizations for the additional purposes of providing technical 7311  
assistance, design and finance services and consultation, and 7312  
payment of pre-development and administrative costs related to any 7313  
of the activities listed above. 7314

(C) In developing programs under this section, the department 7315  
and the agency shall invite, accept, and consider public comment, 7316  
and recommendations from the housing trust fund advisory committee 7317  
created under section 175.25 of the Revised Code, on how the 7318  
programs should be designed to most effectively benefit low- and 7319  
moderate-income families and individuals. The programs developed 7320  
under this section shall respond collectively to housing and 7321  
housing assistance needs of low- and moderate-income families and 7322  
individuals statewide. 7323

(D) The department and the agency, in accordance with Chapter 7324  
119. of the Revised Code, shall each adopt rules ~~under which it~~ 7325  
~~shall~~ to administer programs developed ~~by it~~ under this section. 7326  
The rules shall prescribe procedures and forms ~~whereby that~~ 7327  
counties, municipal corporations, townships, local housing 7328  
authorities, and nonprofit organizations ~~may apply~~ shall use in 7329  
applying for grants, loans, loan guarantees, and loan subsidies 7330  
and that private developers and private lenders ~~may apply~~ shall 7331  
use in applying for loans, loan guarantees, and loan subsidies; 7332  
eligibility criteria for the receipt of funds; procedures for 7333  
reviewing and granting or denying applications; procedures for 7334  
paying out funds; conditions on the use of funds; procedures for 7335  
monitoring the use of funds; and procedures under which a 7336  
recipient shall be required to repay funds that are improperly 7337

used. The rules ~~adopted by the department~~ shall do both of the 7338  
following: 7339

(1) Require each recipient of a grant or loan made from the 7340  
low- and moderate-income housing trust fund for activities that 7341  
~~will~~ provide, or assist in providing, a rental housing project, to 7342  
reasonably ensure that the rental housing project will ~~be~~ remain 7343  
affordable to those families and individuals targeted for the 7344  
rental housing project for the useful life of the rental housing 7345  
project or for thirty years, whichever is longer; 7346

(2) Require each recipient of a grant or loan made from the 7347  
low- and moderate-income housing trust fund for activities that 7348  
~~will~~ provide, or assist in providing, a housing project to prepare 7349  
and implement a plan to reasonably assist any families and 7350  
individuals displaced by the housing project in obtaining decent 7351  
affordable housing. 7352

(E) In prescribing eligibility criteria and conditions for 7353  
the use of funds, neither the department nor the agency is limited 7354  
to the criteria and conditions specified in this section and each 7355  
may prescribe additional eligibility criteria and conditions that 7356  
relate to the purposes for which grants, loans, loan guarantees, 7357  
and loan subsidies may be made. However, the department and agency 7358  
are limited by the following specifically targeted low- and 7359  
moderate-income guidelines: 7360

(1) Not less than seventy-five per cent of the money granted 7361  
and loaned under this section in any fiscal year shall be for 7362  
activities that ~~will~~ provide affordable housing and housing 7363  
assistance to families and individuals ~~in a county~~ whose incomes 7364  
are equal to or less than fifty per cent of the median income for 7365  
~~that~~ the county in which they live, as determined by the 7366  
department under section 175.23 of the Revised Code. 7367

(2) ~~The remainder of the~~ Any money granted and loaned under 7368

this section in any fiscal year that is not granted or loaned 7369  
pursuant to division (E)(1) of this section shall be for 7370  
activities that ~~will~~ provide affordable housing and housing 7371  
assistance to families and individuals ~~in a county~~ whose incomes 7372  
are equal to or less than eighty per cent of the median income for 7373  
~~that~~ the county in which they live, as determined by the 7374  
department under section 175.23 of the Revised Code. 7375

(F) In making grants, loans, loan guarantees, and loan 7376  
subsidies under this section, the department and the agency shall 7377  
give preference to viable projects and activities that ~~will~~ 7378  
benefit those families and individuals ~~in a county~~ whose incomes 7379  
are equal to or less than thirty-five per cent of the median 7380  
income for ~~that~~ the county in which they live, as determined by 7381  
the department under section 175.23 of the Revised Code. 7382

(G) The department and the agency shall monitor the programs 7383  
developed under this section to ensure that money granted and 7384  
loaned under this section is not used in a manner that violates 7385  
division (H) of section 4112.02 of the Revised Code or 7386  
discriminates against families with children. 7387

**Sec. 183.02.** This section's references to years mean state 7388  
fiscal years. 7389

All payments received by the state pursuant to the tobacco 7390  
master settlement agreement shall be deposited into the state 7391  
treasury to the credit of the tobacco master settlement agreement 7392  
fund, which is hereby created. All investment earnings of the fund 7393  
shall also be credited to the fund. Except as provided in division 7394  
(K) of this section, payments and interest credited to the fund 7395  
shall be transferred by the director of budget and management as 7396  
follows: 7397

(A)(1) Of the first payment credited to the tobacco master 7398  
settlement agreement fund in 2000 and the net amounts credited to 7399

the fund annually from 2000 to 2006 and in 2012, the following 7400  
amount or percentage shall be transferred to the tobacco use 7401  
prevention and cessation trust fund, created in section 183.03 of 7402  
the Revised Code: 7403

YEAR	AMOUNT OR PERCENTAGE	
2000 (first payment credited)	\$104,855,222.85	7405
2000 (net amount credited)	70.30%	7406
2001	62.84	7407
2002	61.41	7408
2003	63.24	7409
2004	66.65	7410
2005	66.24	7411
2006	65.97	7412
2012	56.01	7413

(2) Of the net amounts credited to the tobacco master 7414  
settlement agreement fund in 2013, the director shall transfer to 7415  
the tobacco use prevention and cessation trust fund the amount not 7416  
transferred to the tobacco use prevention and cessation trust fund 7417  
from the net amounts credited to the tobacco master settlement 7418  
agreement fund in 2002 due to Am. Sub. H.B. No. 405 and Am. Sub. 7419  
S.B. No. 242 of the 124th general assembly. Of the net amounts 7420  
credited to the tobacco master settlement agreement fund in 2014, 7421  
the director shall transfer to the tobacco use prevention and 7422  
cessation trust fund the amount not transferred to the tobacco use 7423  
prevention and cessation trust fund from the net amounts credited 7424  
to the tobacco master settlement agreement fund in 2003 due to Am. 7425  
Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general 7426  
assembly. Of the net amounts credited to the tobacco master 7427  
settlement agreement fund in 2015, the director shall transfer to 7428  
the tobacco use prevention and cessation trust fund the amount not 7429  
transferred to the tobacco use prevention and cessation trust fund 7430  
from the net amounts credited to the tobacco master settlement 7431

agreement fund in 2004 due to Am. Sub. H.B. 95 of the 125th 7432  
general assembly. 7433

(B) Of the first payment credited to the tobacco master 7434  
settlement agreement fund in 2000 and the net amounts credited to 7435  
the fund annually in 2000 and 2001, the following amount or 7436  
percentage shall be transferred to the law enforcement 7437  
improvements trust fund, created in section 183.10 of the Revised 7438  
Code: 7439

YEAR	AMOUNT OR PERCENTAGE	
2000 (first payment credited)	\$10,000,000	7441
2000 (net amount credited)	5.41%	7442
2001	2.32	7443

(C)(1) Of the first payment credited to the tobacco master 7444  
settlement agreement fund in 2000 and the net amounts credited to 7445  
the fund annually from 2000 to 2011, the following percentages 7446  
shall be transferred to the southern Ohio agricultural and 7447  
community development trust fund, created in section 183.11 of the 7448  
Revised Code: 7449

YEAR	PERCENTAGE	
2000 (first payment credited)	5.00%	7451
2000 (net amount credited)	8.73	7452
2001	8.12	7453
2002	9.18	7454
2003	8.91	7455
2004	7.84	7456
2005	7.79	7457
2006	7.76	7458
2007	17.39	7459
2008 through 2011	17.25	7460

(2) Of the net amounts credited to the tobacco master 7461



settlement agreement fund in 2013, the director shall transfer to 7462  
the southern Ohio agricultural and community development trust 7463  
fund the amount not transferred to the southern Ohio agricultural 7464  
and community development trust fund from the net amounts credited 7465  
to the tobacco master settlement agreement fund in 2002 due to Am. 7466  
Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general 7467  
assembly. Of the net amounts credited to the tobacco master 7468  
settlement agreement fund in 2014, the director shall transfer to 7469  
the southern Ohio agricultural and community development trust 7470  
fund the amount not transferred to the southern Ohio agricultural 7471  
and community development trust fund from the net amounts credited 7472  
to the tobacco master settlement agreement fund in 2003 due to Am. 7473  
Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general 7474  
assembly. 7475

(D)~~(1)~~ The following percentages of the net amounts credited 7476  
to the tobacco master settlement agreement fund annually shall be 7477  
transferred to Ohio's public health priorities trust fund, created 7478  
in section 183.18 of the Revised Code: 7479

YEAR	PERCENTAGE	
2000	5.41	7481
2001	6.68	7482
2002	6.79	7483
2003	6.90	7484
2004	7.82	7485
2005	8.18	7486
2006	8.56	7487
2007	19.83	7488
2008	19.66	7489
2009	20.48	7490
2010	21.30	7491
2011	22.12	7492
2012	10.47	7493

~~(2) Of the net amounts credited to the tobacco master settlement agreement fund in 2013, the director shall transfer to Ohio's public health priorities trust fund the amount not transferred to Ohio's public health priorities trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2002 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general assembly. Of the net amounts credited to the tobacco master settlement agreement fund in 2014, the director shall transfer to Ohio's public health priorities trust fund the amount not transferred to Ohio's public health priorities trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2003 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general assembly.~~

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

YEAR	PERCENTAGE	
2000	2.71	7512
2001	14.03	7513
2002	13.29	7514
2003	12.73	7515
2004	13.78	7516
2005	14.31	7517
2006	14.66	7518
2007	49.57	7519
2008 to 2011	45.06	7520
2012	18.77	7521

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

YEAR	AMOUNT	
2000	\$133,062,504.95	7526
2001	128,938,732.73	7527
2002	185,804,475.78	7528
2003	180,561,673.11	7529
2004	122,778,219.49	7530
2005	121,389,325.80	7531
2006	120,463,396.67	7532
2007	246,389,369.01	7533
2008 to 2011	267,531,291.85	7534
2012	110,954,545.28	7535

(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	7537
2014	33.36	7538
2015 to 2025	40.90	7539

(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	7540
2001	6.01	7541
2002	9.33	7542
2003	8.22	7543
2004	3.91	7544

2005	3.48	7558
2006	3.05	7559
2007	13.21	7560
2008	18.03	7561
2009	17.21	7562
2010	16.39	7563
2011	15.57	7564
2012	14.75	7565

(I) In each year from 2003 to 2025, after the transfers made 7566  
under divisions (F) and (G) of this section but prior to the 7567  
transfers made under divisions (A) to (E) of this section, the 7568  
director of budget and management shall transfer to the tobacco 7569  
settlement oversight, administration, and enforcement fund created 7570  
in section 183.34 of the Revised Code such amount as the director 7571  
determines necessary to pay the costs incurred by the attorney 7572  
general in tobacco settlement oversight, administration, and 7573  
enforcement. 7574

(J) In each year from 2003 to 2025, after the transfers made 7575  
under divisions (F) and (G) of this section but prior to the 7576  
transfers made under divisions (A) to (E) of this section, the 7577  
director of budget and management shall transfer to the tobacco 7578  
settlement enforcement fund created in section 183.35 of the 7579  
Revised Code such amount as the director determines necessary to 7580  
pay the costs incurred by the tax commissioner in the enforcement 7581  
of divisions (F) and (G) of section 5743.03 of the Revised Code. 7582

(K) If in any year from 2001 to 2012 the payments and 7583  
interest credited to the tobacco master settlement agreement fund 7584  
during the year amount to less than the amounts required to be 7585  
transferred to the education facilities trust fund and the 7586  
education facilities endowment fund that year, the director of 7587  
budget and management shall make none of the transfers required by 7588  
divisions (A) to (J) of this section. 7589

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

YEAR	AMOUNT	
2000	\$443,892,767.51	7596
2001	348,780,049.22	7597
2002	418,783,038.09	7598
2003	422,746,368.61	7599
2004	352,827,184.57	7600
2005	352,827,184.57	7601
2006	352,827,184.57	7602
2007	352,827,184.57	7603
2008 to 2017	383,779,323.15	7604
2018 to 2025	403,202,282.16	7605

**Sec. 306.35.** Upon the creation of a regional transit authority as provided by section 306.32 of the Revised Code, and upon the qualifying of its board of trustees and the election of a president and a vice-president, the authority shall exercise in its own name all the rights, powers, and duties vested in and conferred upon it by sections 306.30 to 306.53 of the Revised Code. Subject to any reservations, limitations, and qualifications that are set forth in those sections, the regional transit authority:

(A) May sue or be sued in its corporate name;

(B) May make contracts in the exercise of the rights, powers, and duties conferred upon it;

(C) May adopt and at will alter a seal and use such seal by causing it to be impressed, affixed, reproduced, or otherwise used, but failure to affix the seal shall not affect the validity

of any instrument; 7621

(D)(1) May adopt, amend, and repeal bylaws for the 7622  
administration of its affairs and rules for the control of the 7623  
administration and operation of transit facilities under its 7624  
jurisdiction, and for the exercise of all of its rights of 7625  
ownership in those transit facilities; 7626

(2) The regional transit authority also may adopt bylaws and 7627  
rules for the following purposes: 7628

(a) To prohibit selling, giving away, or using any beer or 7629  
intoxicating liquor on transit vehicles or transit property; 7630

(b) For the preservation of good order within or on transit 7631  
vehicles or transit property; 7632

(c) To provide for the protection and preservation of all 7633  
property and life within or on transit vehicles or transit 7634  
property; 7635

(d) To regulate and enforce the collection of fares. 7636

(3) Before a bylaw or rule adopted under division (D)(2) of 7637  
this section takes effect, the regional transit authority shall 7638  
provide for a notice of its adoption to be published once a week 7639  
for two consecutive weeks in a newspaper of general circulation 7640  
within the territorial boundaries of the regional transit 7641  
authority. 7642

(4) No person shall violate any bylaw or rule of a regional 7643  
transit authority adopted under division (D)(2) of this section. 7644

(E) May fix, alter, and collect fares, rates, and rentals and 7645  
other charges for the use of transit facilities under its 7646  
jurisdiction to be determined exclusively by it for the purpose of 7647  
providing for the payment of the expenses of the regional transit 7648  
authority, the acquisition, construction, improvement, extension, 7649  
repair, maintenance, and operation of transit facilities under its 7650

jurisdiction, the payment of principal and interest on its 7651  
obligations, and to fulfill the terms of any agreements made with 7652  
purchasers or holders of any such obligations, or with any person 7653  
or political subdivision; 7654

(F) Shall have jurisdiction, control, possession, and 7655  
supervision of all property, rights, easements, licenses, moneys, 7656  
contracts, accounts, liens, books, records, maps, or other 7657  
property rights and interests conveyed, delivered, transferred, or 7658  
assigned to it; 7659

(G) May acquire, construct, improve, extend, repair, lease, 7660  
operate, maintain, or manage transit facilities within or without 7661  
its territorial boundaries, considered necessary to accomplish the 7662  
purposes of its organization and make charges for the use of 7663  
transit facilities; 7664

(H) May levy and collect taxes as provided in sections 306.40 7665  
and 306.49 of the Revised Code; 7666

(I) May issue bonds secured by its general credit as provided 7667  
in section 306.40 of the Revised Code; 7668

(J) May hold, encumber, control, acquire by donation, by 7669  
purchase for cash or by installment payments, by lease-purchase 7670  
agreement, by lease with option to purchase, or by condemnation, 7671  
and may construct, own, lease as lessee or lessor, use, and sell, 7672  
real and personal property, or any interest or right in real and 7673  
personal property, within or without its territorial boundaries, 7674  
for the location or protection of transit facilities and 7675  
improvements and access to transit facilities and improvements, 7676  
the relocation of buildings, structures, and improvements situated 7677  
on lands acquired by the regional transit authority, or for any 7678  
other necessary purpose, or for obtaining or storing materials to 7679  
be used in constructing, maintaining, and improving transit 7680  
facilities under its jurisdiction; 7681

(K) May exercise the power of eminent domain to acquire 7682  
property or any interest in property, within or without its 7683  
territorial boundaries, that is necessary or proper for the 7684  
construction or efficient operation of any transit facility or 7685  
access to any transit facility under its jurisdiction in 7686  
accordance with section 306.36 of the Revised Code; 7687

(L) May provide by agreement with any county, including the 7688  
counties within its territorial boundaries, or any municipal 7689  
corporation or any combination of counties or municipal 7690  
corporations for the making of necessary surveys, appraisals, and 7691  
examinations preliminary to the acquisition or construction of any 7692  
transit facility and the amount of the expense for the surveys, 7693  
appraisals, and examinations to be paid by each such county or 7694  
municipal corporation; 7695

(M) May provide by agreement with any county, including the 7696  
counties within its territorial boundaries, or any municipal 7697  
corporation or any combination of those counties or municipal 7698  
corporations for the acquisition, construction, improvement, 7699  
extension, maintenance, or operation of any transit facility owned 7700  
or to be owned and operated by it or owned or to be owned and 7701  
operated by any such county or municipal corporation and the terms 7702  
on which it shall be acquired, leased, constructed, maintained, or 7703  
operated, and the amount of the cost and expense of the 7704  
acquisition, lease, construction, maintenance, or operation to be 7705  
paid by each such county or municipal corporation; 7706

(N) May issue revenue bonds for the purpose of acquiring, 7707  
replacing, improving, extending, enlarging, or constructing any 7708  
facility or permanent improvement that it is authorized to 7709  
acquire, replace, improve, extend, enlarge, or construct, 7710  
including all costs in connection with and incidental to the 7711  
acquisition, replacement, improvement, extension, enlargement, or 7712  
construction, and their financing, as provided by section 306.37 7713



of the Revised Code;	7714
(O) May enter into and supervise franchise agreements for the operation of a transit system;	7715 7716
(P) May accept the assignment of and supervise an existing franchise agreement for the operation of a transit system;	7717 7718
(Q) May exercise a right to purchase a transit system in accordance with the acquisition terms of an existing franchise agreement; and in connection with the purchase the regional transit authority may issue revenue bonds as provided by section 306.37 of the Revised Code or issue bonds secured by its general credit as provided in section 306.40 of the Revised Code;	7719 7720 7721 7722 7723 7724
(R) May apply for and accept grants or loans from the United States, the state, or any other public body for the purpose of providing for the development or improvement of transit facilities, mass transportation facilities, equipment, techniques, methods, or services, and grants or loans needed to exercise a right to purchase a transit system pursuant to agreement with the owner of those transit facilities, or for providing lawful financial assistance to existing transit systems; and may provide any consideration that may be required in order to obtain those grants or loans from the United States, the state, or other public body, either of which grants or loans may be evidenced by the issuance of revenue bonds as provided by section 306.37 of the Revised Code or general obligation bonds as provided by section 306.40 of the Revised Code;	7725 7726 7727 7728 7729 7730 7731 7732 7733 7734 7735 7736 7737 7738
(S) May employ and fix the compensation of consulting engineers, superintendents, managers, and such other engineering, construction, accounting and financial experts, attorneys, and other employees and agents necessary for the accomplishment of its purposes;	7739 7740 7741 7742 7743
(T) May procure insurance against loss to it by reason of	7744

damages to its properties resulting from fire, theft, accident, or 7745  
other casualties or by reason of its liability for any damages to 7746  
persons or property occurring in the construction or operation of 7747  
transit facilities under its jurisdiction or the conduct of its 7748  
activities; 7749

(U) May maintain funds that it considers necessary for the 7750  
efficient performance of its duties; 7751

(V) May direct its agents or employees, when properly 7752  
identified in writing, after at least five days' written notice, 7753  
to enter upon lands within or without its territorial boundaries 7754  
in order to make surveys and examinations preliminary to the 7755  
location and construction of transit facilities, without liability 7756  
to it or its agents or employees except for actual damage done; 7757

(W) On its own motion, may request the appropriate zoning 7758  
board, as defined in section 4563.03 of the Revised Code, to 7759  
establish and enforce zoning regulations pertaining to any transit 7760  
facility under its jurisdiction in the manner prescribed by 7761  
sections 4563.01 to 4563.21 of the Revised Code; 7762

(X) If it acquires any existing transit system, shall assume 7763  
all the employer's obligations under any existing labor contract 7764  
between the employees and management of the system. If the board 7765  
acquires, constructs, controls, or operates any such facilities, 7766  
it shall negotiate arrangements to protect the interests of 7767  
employees affected by the acquisition, construction, control, or 7768  
operation. The arrangements shall include, but are not limited to: 7769

(1) The preservation of rights, privileges, and benefits 7770  
under existing collective bargaining agreements or otherwise, the 7771  
preservation of rights and benefits under any existing pension 7772  
plans covering prior service, and continued participation in 7773  
social security in addition to participation in the public 7774  
employees retirement system as required in Chapter 145. of the 7775

Revised Code;	7776
(2) The continuation of collective bargaining rights;	7777
(3) The protection of individual employees against a worsening of their positions with respect to their employment;	7778 7779
(4) Assurances of employment to employees of those transit systems and priority reemployment of employees terminated or laid off;	7780 7781 7782
(5) Paid training or retraining programs;	7783
(6) Signed written labor agreements.	7784
The arrangements may include provisions for the submission of labor disputes to final and binding arbitration.	7785 7786
(Y) May provide for and maintain security operations, including a transit police department, subject to section 306.352 of the Revised Code. Regional transit authority police officers shall have the power and duty to act as peace officers within transit facilities owned, operated, or leased by the transit authority to protect the transit authority's property and the person and property of passengers, to preserve the peace, and to enforce all laws of the state and ordinances and regulations of political subdivisions in which the transit authority operates. Regional transit authority police officers also shall have the power and duty to act as peace officers when they render emergency assistance outside their jurisdiction to any other peace officer who is not a regional transit authority police officer and who has arrest authority under section 2935.03 of the Revised Code. Regional transit authority police officers may render emergency assistance if there is a threat of imminent physical danger to the peace officer, a threat of physical harm to another person, or any other serious emergency situation and if either the peace officer who is assisted requests emergency assistance or it appears that the peace officer who is assisted is unable to request emergency	7787 7788 7789 7790 7791 7792 7793 7794 7795 7796 7797 7798 7799 7800 7801 7802 7803 7804 7805 7806

assistance and the circumstances observed by the regional transit 7807  
authority police officer reasonably indicate that emergency 7808  
assistance is appropriate. 7809

Before exercising powers of arrest and the other powers and 7810  
duties of a peace officer, each regional transit authority police 7811  
officer shall take an oath and give bond to the state in a sum 7812  
that the board of trustees prescribes for the proper performance 7813  
of the officer's duties. 7814

Persons employed as regional transit authority police 7815  
officers shall complete training for the position to which they 7816  
have been appointed as required by the Ohio peace officer training 7817  
commission as authorized in section 109.77 of the Revised Code, or 7818  
be otherwise qualified. The cost of the training shall be provided 7819  
by the regional transit authority. 7820

(Z) May procure a policy or policies insuring members of its 7821  
board of trustees against liability on account of damages or 7822  
injury to persons and property resulting from any act or omission 7823  
of a member in the member's official capacity as a member of the 7824  
board or resulting solely out of the member's membership on the 7825  
board; 7826

(AA) May enter into any agreement for the sale and leaseback 7827  
or lease and leaseback of transit facilities, which agreement may 7828  
contain all necessary covenants for the security and protection of 7829  
any lessor or the regional transit authority including, but not 7830  
limited to, indemnification of the lessor against the loss of 7831  
anticipated tax benefits arising from acts, omissions, or 7832  
misrepresentations of the regional transit authority. In 7833  
connection with that transaction, the regional transit authority 7834  
may contract for insurance and letters of credit and pay any 7835  
premiums or other charges for the insurance and letters of credit. 7836  
The fiscal officer shall not be required to furnish any 7837  
certificate under section 5705.41 of the Revised Code in 7838

connection with the execution of any such agreement. 7839

(BB) In regard to any contract entered into on or after March 7840  
19, 1993, for the rendering of services or the supplying of 7841  
materials or for the construction, demolition, alteration, repair, 7842  
or reconstruction of transit facilities in which a bond is 7843  
required for the faithful performance of the contract, may permit 7844  
the person awarded the contract to utilize a letter of credit 7845  
issued by a bank or other financial institution in lieu of the 7846  
bond; 7847

(CC) May enter into agreements with municipal corporations 7848  
located within the territorial jurisdiction of the regional 7849  
transit authority permitting regional transit authority police 7850  
officers employed under division (Y) of this section to exercise 7851  
full arrest powers, as provided in section 2935.03 of the Revised 7852  
Code, for the purpose of preserving the peace and enforcing all 7853  
laws of the state and ordinances and regulations of the municipal 7854  
corporation within the areas that may be agreed to by the regional 7855  
transit authority and the municipal corporation. 7856

**Sec. 306.99. (A)** No person shall violate any rule or 7857  
regulation adopted pursuant to division (N) of section 306.04 of 7858  
the Revised Code and whoever violates such a rule or regulation 7859  
shall be fined not more than one thousand dollars or imprisoned 7860  
not more than ninety days or both. 7861

(B) Whoever violates division (D)(4) of section 306.35 of the 7862  
Revised Code shall be fined not more than one hundred dollars on a 7863  
first offense and not more than five hundred dollars on each 7864  
subsequent offense. 7865

Fines levied and collected for such violations shall be paid 7866  
into the treasury of the regional transit authority. The regional 7867  
transit authority may use such fine money for any purpose that is 7868  
not inconsistent with sections 306.30 to 306.54 of the Revised 7869

Code. 7870

**Sec. 307.86.** Anything to be purchased, leased, leased with an 7871  
option or agreement to purchase, or constructed, including, but 7872  
not limited to, any product, structure, construction, 7873  
reconstruction, improvement, maintenance, repair, or service, 7874  
except the services of an accountant, architect, attorney at law, 7875  
physician, professional engineer, construction project manager, 7876  
consultant, surveyor, or appraiser, by or on behalf of the county 7877  
or contracting authority, as defined in section 307.92 of the 7878  
Revised Code, at a cost in excess of ~~fifteen~~ twenty-five thousand 7879  
dollars, except as otherwise provided in division (D) of section 7880  
713.23 and in sections 125.04, 307.022, 307.041, 307.861, 339.05, 7881  
340.03, 340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 5543.19, 7882  
5713.01, and 6137.05 of the Revised Code, shall be obtained 7883  
through competitive bidding. However, competitive bidding is not 7884  
required when any of the following applies: 7885

(A) The board of county commissioners, by a unanimous vote of 7886  
its members, makes a determination that a real and present 7887  
emergency exists, and that determination and the reasons for it 7888  
are entered in the minutes of the proceedings of the board, when 7889  
either of the following applies: 7890

(1) The estimated cost is less than fifty thousand dollars. 7891

(2) There is actual physical disaster to structures, radio 7892  
communications equipment, or computers. 7893

For purposes of this division, "unanimous vote" means all 7894  
three members of a board of county commissioners when all three 7895  
members are present, or two members of the board if only two 7896  
members, constituting a quorum, are present. 7897

Whenever a contract of purchase, lease, or construction is 7898  
exempted from competitive bidding under division (A)(1) of this 7899

section because the estimated cost is less than fifty thousand 7900  
dollars, but the estimated cost is ~~fifteen~~ twenty-five thousand 7901  
dollars or more, the county or contracting authority shall solicit 7902  
informal estimates from no fewer than three persons who could 7903  
perform the contract, before awarding the contract. With regard to 7904  
each such contract, the county or contracting authority shall 7905  
maintain a record of such estimates, including the name of each 7906  
person from whom an estimate is solicited. The county or 7907  
contracting authority shall maintain the record for the longer of 7908  
at least one year after the contract is awarded or the amount of 7909  
time the federal government requires. 7910

(B)(1) The purchase consists of supplies or a replacement or 7911  
supplemental part or parts for a product or equipment owned or 7912  
leased by the county, and the only source of supply for the 7913  
supplies, part, or parts is limited to a single supplier. 7914

(2) The purchase consists of services related to information 7915  
technology, such as programming services, that are proprietary or 7916  
limited to a single source. 7917

(C) The purchase is from the federal government, the state, 7918  
another county or contracting authority of another county, or a 7919  
board of education, township, or municipal corporation. 7920

(D) Public family services or workforce development 7921  
activities are purchased for provision by the county department of 7922  
job and family services under section 329.04 of the Revised Code, 7923  
or program services, such as direct and ancillary client services, 7924  
child day-care, case management services, residential services, 7925  
and family resource services, are purchased for provision by a 7926  
county board of mental retardation and developmental disabilities 7927  
under section 5126.05 of the Revised Code. 7928

(E) The purchase consists of criminal justice services, 7929  
social services programs, family services, or workforce 7930

development activities by the board of county commissioners from 7931  
nonprofit corporations or associations under programs funded by 7932  
the federal government or by state grants. 7933

(F) The purchase consists of any form of an insurance policy 7934  
or contract authorized to be issued under Title XXXIX of the 7935  
Revised Code or any form of health care plan authorized to be 7936  
issued under Chapter 1751. of the Revised Code, or any combination 7937  
of such policies, contracts, or plans that the contracting 7938  
authority is authorized to purchase, and the contracting authority 7939  
does all of the following: 7940

(1) Determines that compliance with the requirements of this 7941  
section would increase, rather than decrease, the cost of the 7942  
purchase; 7943

(2) Employs a competent consultant to assist the contracting 7944  
authority in procuring appropriate coverages at the best and 7945  
lowest prices; 7946

(3) Requests issuers of the policies, contracts, or plans to 7947  
submit proposals to the contracting authority, in a form 7948  
prescribed by the contracting authority, setting forth the 7949  
coverage and cost of the policies, contracts, or plans as the 7950  
contracting authority desires to purchase; 7951

(4) Negotiates with the issuers for the purpose of purchasing 7952  
the policies, contracts, or plans at the best and lowest price 7953  
reasonably possible. 7954

(G) The purchase consists of computer hardware, software, or 7955  
consulting services that are necessary to implement a computerized 7956  
case management automation project administered by the Ohio 7957  
prosecuting attorneys association and funded by a grant from the 7958  
federal government. 7959

(H) Child day-care services are purchased for provision to 7960  
county employees. 7961



(I)(1) Property, including land, buildings, and other real	7962
property, is leased for offices, storage, parking, or other	7963
purposes, and all of the following apply:	7964
(a) The contracting authority is authorized by the Revised	7965
Code to lease the property.	7966
(b) The contracting authority develops requests for proposals	7967
for leasing the property, specifying the criteria that will be	7968
considered prior to leasing the property, including the desired	7969
size and geographic location of the property.	7970
(c) The contracting authority receives responses from	7971
prospective lessors with property meeting the criteria specified	7972
in the requests for proposals by giving notice in a manner	7973
substantially similar to the procedures established for giving	7974
notice under section 307.87 of the Revised Code.	7975
(d) The contracting authority negotiates with the prospective	7976
lessors to obtain a lease at the best and lowest price reasonably	7977
possible considering the fair market value of the property and any	7978
relocation and operational costs that may be incurred during the	7979
period the lease is in effect.	7980
(2) The contracting authority may use the services of a real	7981
estate appraiser to obtain advice, consultations, or other	7982
recommendations regarding the lease of property under this	7983
division.	7984
(J) The purchase is made pursuant to section 5139.34 or	7985
sections 5139.41 to 5139.46 of the Revised Code and is of programs	7986
or services that provide case management, treatment, or prevention	7987
services to any felony or misdemeanor delinquent, unruly youth,	7988
or status offender under the supervision of the juvenile court,	7989
including, but not limited to, community residential care, day	7990
treatment, services to children in their home, or electronic	7991
monitoring.	7992

(K) The purchase is made by a public children services agency 7993  
pursuant to section 307.92 or 5153.16 of the Revised Code and 7994  
consists of family services, programs, or ancillary services that 7995  
provide case management, prevention, or treatment services for 7996  
children at risk of being or alleged to be abused, neglected, or 7997  
dependent children. 7998

Any issuer of policies, contracts, or plans listed in 7999  
division (F) of this section and any prospective lessor under 8000  
division (I) of this section may have the issuer's or prospective 8001  
lessor's name and address, or the name and address of an agent, 8002  
placed on a special notification list to be kept by the 8003  
contracting authority, by sending the contracting authority that 8004  
name and address. The contracting authority shall send notice to 8005  
all persons listed on the special notification list. Notices shall 8006  
state the deadline and place for submitting proposals. The 8007  
contracting authority shall mail the notices at least six weeks 8008  
prior to the deadline set by the contracting authority for 8009  
submitting proposals. Every five years the contracting authority 8010  
may review this list and remove any person from the list after 8011  
mailing the person notification of that action. 8012

Any contracting authority that negotiates a contract under 8013  
division (F) of this section shall request proposals and 8014  
renegotiate with issuers in accordance with that division at least 8015  
every three years from the date of the signing of such a contract. 8016

Any consultant employed pursuant to division (F) of this 8017  
section and any real estate appraiser employed pursuant to 8018  
division (I) of this section shall disclose any fees or 8019  
compensation received from any source in connection with that 8020  
employment. 8021

**Sec. 307.87.** Where competitive bidding is required by section 8022  
307.86 of the Revised Code, notice thereof shall be given in the 8023

following manner: 8024

(A) Notice shall be published once a week for not less than 8025  
two consecutive weeks preceding the day of the opening of bids in 8026  
a newspaper of general circulation within the county for any 8027  
purchase, lease, lease with option or agreement to purchase, or 8028  
construction contract in excess of ~~ten~~ twenty-five thousand 8029  
dollars. The contracting authority may also cause notice to be 8030  
inserted in trade papers or other publications designated by it or 8031  
to be distributed by electronic means, including posting the 8032  
notice on the contracting authority's internet site on the world 8033  
wide web. If the contracting authority posts the notice on that 8034  
location on the world wide web, it may eliminate the second notice 8035  
otherwise required to be published in a newspaper of general 8036  
circulation within the county, provided that the first notice 8037  
published in such a newspaper meets all of the following 8038  
requirements: 8039

(1) It is published at least two weeks before the opening of 8040  
bids. 8041

(2) It includes a statement that the notice is posted on the 8042  
contracting authority's internet site on the world wide web. 8043

(3) It includes the internet address of the contracting 8044  
authority's internet site on the world wide web. 8045

(4) It includes instructions describing how the notice may be 8046  
accessed on the contracting authority's internet site on the world 8047  
wide web. 8048

(B) Notices shall state all of the following: 8049

(1) A general description of the subject of the proposed 8050  
contract and the time and place where the plans and specifications 8051  
or itemized list of supplies, facilities, or equipment and 8052  
estimated quantities can be obtained or examined; 8053

(2) The time and place where bids will be opened; 8054

(3) The time and place for filing bids; 8055

(4) The terms of the proposed purchase; 8056

(5) Conditions under which bids will be received; 8057

(6) The existence of a system of preference, if any, for 8058  
products mined and produced in Ohio and the United States adopted 8059  
pursuant to section 307.90 of the Revised Code. 8060

~~(B)~~(C) The contracting authority shall also maintain in a 8061  
public place in its office or other suitable public place a 8062  
bulletin board upon which it shall post and maintain a copy of 8063  
such notice for at least two weeks preceding the day of the 8064  
opening of the bids. 8065

**Sec. 307.93.** (A) The boards of county commissioners of two or 8066  
more adjacent counties may contract for the joint establishment of 8067  
a multicounty correctional center, and the board of county 8068  
commissioners of a county or the boards of two or more counties 8069  
may contract with any municipal corporation or municipal 8070  
corporations located in that county or those counties for the 8071  
joint establishment of a municipal-county or multicounty-municipal 8072  
correctional center. The center shall augment county and, where 8073  
applicable, municipal jail programs and facilities by providing 8074  
custody and rehabilitative programs for those persons under the 8075  
charge of the sheriff of any of the contracting counties or of the 8076  
officer or officers of the contracting municipal corporation or 8077  
municipal corporations having charge of persons incarcerated in 8078  
the municipal jail, workhouse, or other correctional facility who, 8079  
in the opinion of the sentencing court, need programs of custody 8080  
and rehabilitation not available at the county or municipal jail 8081  
and by providing custody and rehabilitative programs in accordance 8082  
with division (C) of this section, if applicable. The contract may 8083

include, but need not be limited to, provisions regarding the 8084  
acquisition, construction, maintenance, repair, termination of 8085  
operations, and administration of the center. The contract shall 8086  
prescribe the manner of funding of, and debt assumption for, the 8087  
center and the standards and procedures to be followed in the 8088  
operation of the center. Except as provided in division (H) of 8089  
this section, the contracting counties and municipal corporations 8090  
shall form a corrections commission to oversee the administration 8091  
of the center. Members of the commission shall consist of the 8092  
sheriff of each participating county, the president of the board 8093  
of county commissioners of each participating county, the 8094  
presiding judge of the court of common pleas of each participating 8095  
county, or, if the court of common pleas of a participating county 8096  
has only one judge, then that judge, the chief of police of each 8097  
participating municipal corporation, the mayor or city manager of 8098  
each participating municipal corporation, and the presiding judge 8099  
or the sole judge of the municipal court of each participating 8100  
municipal corporation. Any of the foregoing officers may appoint a 8101  
designee to serve in the officer's place on the corrections 8102  
commission. The standards and procedures shall be formulated and 8103  
agreed to by the commission and may be amended at any time during 8104  
the life of the contract by agreement of the parties to the 8105  
contract upon the advice of the commission. The standards and 8106  
procedures formulated by the commission shall include, but need 8107  
not be limited to, designation of the person in charge of the 8108  
center, the categories of employees to be employed at the center, 8109  
the appointing authority of the center, and the standards of 8110  
treatment and security to be maintained at the center. The person 8111  
in charge of, and all persons employed to work at, the center 8112  
shall have all the powers of police officers that are necessary 8113  
for the proper performance of the duties relating to their 8114  
positions at the center. 8115

(B) Each board of county commissioners that enters a contract 8116

under division (A) of this section may appoint a building 8117  
commission pursuant to section 153.21 of the Revised Code. If any 8118  
commissions are appointed, they shall function jointly in the 8119  
construction of a multicounty or multicounty-municipal 8120  
correctional center with all the powers and duties authorized by 8121  
law. 8122

(C) Prior to the acceptance for custody and rehabilitation 8123  
into a center established under this section of any persons who 8124  
are designated by the department of rehabilitation and correction, 8125  
who plead guilty to or are convicted of a felony of the fourth or 8126  
fifth degree, and who satisfy the other requirements listed in 8127  
section 5120.161 of the Revised Code, the corrections commission 8128  
of a center established under this section shall enter into an 8129  
agreement with the department of rehabilitation and correction 8130  
under section 5120.161 of the Revised Code for the custody and 8131  
rehabilitation in the center of persons who are designated by the 8132  
department, who plead guilty to or are convicted of a felony of 8133  
the fourth or fifth degree, and who satisfy the other requirements 8134  
listed in that section, in exchange for a per diem fee per person. 8135  
Persons incarcerated in the center pursuant to an agreement 8136  
entered into under this division shall be subject to supervision 8137  
and control in the manner described in section 5120.161 of the 8138  
Revised Code. This division does not affect the authority of a 8139  
court to directly sentence a person who is convicted of or pleads 8140  
guilty to a felony to the center in accordance with section 8141  
2929.16 of the Revised Code. 8142

(D) Pursuant to section 2929.37 of the Revised Code, each 8143  
board of county commissioners and the legislative authority of 8144  
each municipal corporation that enters into a contract under 8145  
division (A) of this section may require a person who was 8146  
convicted of an offense, who is under the charge of the sheriff of 8147  
their county or of the officer or officers of the contracting 8148

municipal corporation or municipal corporations having charge of 8149  
persons incarcerated in the municipal jail, workhouse, or other 8150  
correctional facility, and who is confined in the multicounty, 8151  
municipal-county, or multicounty-municipal correctional center as 8152  
provided in that division, to reimburse the applicable county or 8153  
municipal corporation for its expenses incurred by reason of the 8154  
person's confinement in the center. 8155

(E) Notwithstanding any contrary provision in this section or 8156  
section 2929.18, 2929.21, 2929.36, or 2929.37 of the Revised Code, 8157  
the corrections commission of a center may establish a policy that 8158  
complies with section 2929.38 of the Revised Code and that 8159  
requires any person who is not indigent and who is confined in the 8160  
multicounty, municipal-county, or multicounty-municipal 8161  
correctional center to pay a reception fee, a fee for medical 8162  
treatment or service requested by and provided to that person, or 8163  
the fee for a random drug test assessed under division (E) of 8164  
section 341.26 of the Revised Code. 8165

(F)(1) The corrections commission of a center established 8166  
under this section may establish a commissary for the center. The 8167  
commissary may be established either in-house or by another 8168  
arrangement. If a commissary is established, all persons 8169  
incarcerated in the center shall receive commissary privileges. A 8170  
person's purchases from the commissary shall be deducted from the 8171  
person's account record in the center's business office. The 8172  
commissary shall provide for the distribution to indigent persons 8173  
incarcerated in the center of necessary hygiene articles and 8174  
writing materials. 8175

(2) If a commissary is established, the corrections 8176  
commission of a center established under this section shall 8177  
establish a commissary fund for the center. The management of 8178  
funds in the commissary fund shall be strictly controlled in 8179  
accordance with procedures adopted by the auditor of state. 8180

Commissary fund revenue over and above operating costs and reserve 8181  
shall be considered profits. All profits from the commissary fund 8182  
shall be used to purchase supplies and equipment for the benefit 8183  
of persons incarcerated in the center and to pay salary and 8184  
benefits for employees of the center, or for any other persons, 8185  
who work in or are employed for the sole purpose of providing 8186  
service to the commissary. The corrections commission shall adopt 8187  
rules and regulations for the operation of any commissary fund it 8188  
establishes. 8189

(G) In lieu of forming a corrections commission to administer 8190  
a multicounty correctional center or a municipal-county or 8191  
multicounty-municipal correctional center, the boards of county 8192  
commissioners and the legislative authorities of the municipal 8193  
corporations contracting to establish the center may also agree to 8194  
contract for the private operation and management of the center as 8195  
provided in section 9.06 of the Revised Code, but only if the 8196  
center houses only misdemeanor inmates. In order to enter into a 8197  
contract under section 9.06 of the Revised Code, all the boards 8198  
and legislative authorities establishing the center shall approve 8199  
and be parties to the contract. 8200

(H) If a person who is convicted of or pleads guilty to an 8201  
offense is sentenced to a term in a multicounty correctional 8202  
center or a municipal-county or multicounty-municipal correctional 8203  
center or is incarcerated in the center in the manner described in 8204  
division (C) of this section, or if a person who is arrested for 8205  
an offense, and who has been denied bail or has had bail set and 8206  
has not been released on bail is confined in a multicounty 8207  
correctional center or a municipal-county or multicounty-municipal 8208  
correctional center pending trial, at the time of reception and at 8209  
other times the officer, officers, or other person in charge of 8210  
the operation of the center determines to be appropriate, the 8211  
officer, officers, or other person in charge of the operation of 8212



the center may cause the convicted or accused offender to be 8213  
examined and tested for tuberculosis, HIV infection, hepatitis, 8214  
including but not limited to hepatitis A, B, and C, and other 8215  
contagious diseases. The officer, officers, or other person in 8216  
charge of the operation of the center may cause a convicted or 8217  
accused offender in the center who refuses to be tested or treated 8218  
for tuberculosis, HIV infection, hepatitis, including but not 8219  
limited to hepatitis A, B, and C, or another contagious disease to 8220  
be tested and treated involuntarily. 8221

(I) As used in this section, "multicounty-municipal" means 8222  
more than one county and a municipal corporation, or more than one 8223  
municipal corporation and a county, or more than one municipal 8224  
corporation and more than one county. 8225

**Sec. 311.17.** For the services specified in this section, the 8226  
sheriff shall charge the following fees, which the court or its 8227  
clerk ~~thereof~~ shall tax in the bill of costs against the judgment 8228  
debtor or those legally liable therefor for the judgment: 8229

(A) For the service and return of the following writs and 8230  
orders: 8231

(1) Execution: 8232

(a) When money is paid without levy or when no property is 8233  
found, ~~five~~ twenty dollars; 8234

(b) When levy is made on real property, for the first tract, 8235  
~~twenty~~ twenty-five dollars, and for each additional tract, ~~five~~ 8236  
ten dollars; 8237

(c) When levy is made on goods and chattels, including 8238  
inventory, ~~twenty-five~~ fifty dollars. 8239

(2) Writ of attachment of property, except for purpose of 8240  
garnishment, ~~twenty~~ forty dollars; 8241

(3) Writ of attachment for the purpose of garnishment, ~~five~~ 8242

<u>ten</u> dollars;	8243
(4) Writ of replevin, <del>twenty</del> <u>forty</u> dollars;	8244
(5) Warrant to arrest, for each person named in the writ, <del>five</del> <u>ten</u> dollars;	8245 8246
(6) Attachment for contempt, for each person named in the writ, <del>three</del> <u>six</u> dollars;	8247 8248
(7) Writ of possession or restitution, <del>twenty</del> <u>sixty</u> dollars;	8249
(8) Subpoena, for each person named in the writ, <del>if in either</del> a civil <u>or criminal</u> case <del>three, six</del> dollars, <del>if in a criminal case</del> <del>one dollar</del> ;	8250 8251 8252
(9) Venire, for each person named in the writ, <del>if in either</del> a civil <u>or criminal</u> case <del>three, six</del> dollars, <del>if in a criminal case</del> <del>one dollar</del> ;	8253 8254 8255
(10) Summoning each juror, other than on venire, <del>if in either</del> a civil <u>or criminal</u> case <del>three, six</del> dollars, <del>if in a criminal case</del> <del>one dollar</del> ;	8256 8257 8258
(11) Writ of partition, <del>fifteen</del> <u>twenty-five</u> dollars;	8259
(12) Order of sale on partition, for the first tract, <del>twenty-five</del> <u>fifty</u> dollars, and for each additional tract, <del>five</del> <u>twenty-five</u> dollars;	8260 8261 8262
(13) Other order of sale of real property, for the first tract, <del>twenty</del> <u>fifty</u> dollars, and for each additional tract, <del>five</del> <u>twenty-five</u> dollars;	8263 8264 8265
(14) Administering oath to appraisers, <del>one dollar and fifty</del> <del>cents</del> <u>three dollars</u> each;	8266 8267
(15) Furnishing copies for advertisements, <del>fifty cents</del> <u>one</u> <u>dollar</u> for each hundred words;	8268 8269
(16) Copy of indictment, for each defendant, <del>two</del> <u>five</u> dollars;	8270 8271

(17) All summons, writs, orders, or notices, for the first name, <del>three</del> <u>six</u> dollars, and for each additional name, <del>fifty cents</del> <u>one dollar</u> .	8272 8273 8274
(B) In addition to the fee for service and return, <del>the sheriff may charge:</del>	8275 8276
(1) On each summons, writ, order, or notice, a fee of <del>fifty cents</del> <u>one dollar</u> per mile for the first mile, and <del>twenty</del> <u>fifty</u> cents per mile for each additional mile, going and returning, actual mileage to be charged on each additional name;	8277 8278 8279 8280
(2) Taking bail bond, <del>one dollar</del> <u>three dollars</u> ;	8281
(3) Jail fees, as follows:	8282
(a) For receiving a prisoner, <del>four</del> <u>five</u> dollars <u>each time a prisoner is received</u> , and for discharging or surrendering a prisoner, <del>four</del> <u>five</u> dollars; <u>each time a prisoner is discharged or surrendered. The departure or return of a prisoner from or to a jail in connection with a program established under section 5147.28 of the Revised Code is not a receipt, discharge, or surrender of the prisoner for purposes of this division.</u>	8283 8284 8285 8286 8287 8288 8289
(b) Taking a prisoner before a judge or court, per day, <del>three</del> <u>five</u> dollars;	8290 8291
(c) Calling action, <del>fifty cents</del> <u>one dollar</u> ;	8292
(d) Calling jury, <del>one dollar</del> <u>three dollars</u> ;	8293
(e) Calling each witness, <del>one dollar</del> <u>three dollars</u> ;	8294
(f) Bringing prisoner before court on habeas corpus, <del>four</del> <u>six</u> dollars;.	8295 8296
(4) Poundage on all moneys actually made and paid to the sheriff on execution, decree, or sale of real estate, one <u>and one-half</u> per cent;	8297 8298 8299
(5) Making and executing a deed of land sold on execution,	8300

decree, or order of the court, to be paid by the purchaser, 8301  
~~twenty-five~~ fifty dollars. 8302

When any of the ~~foregoing~~ services described in division (A) 8303  
or (B) of this section are rendered by an officer or employee, 8304  
whose salary or per diem compensation is paid by the county, the 8305  
applicable legal fees and any other extraordinary expenses, 8306  
including overtime, provided for ~~such the service in this section~~ 8307  
shall be taxed in the costs in the case, and, when ~~such fees are~~ 8308  
collected ~~they,~~ shall be paid into the general fund of the county. 8309

The sheriff shall charge the same fees for the execution of 8310  
process issued in any other state as ~~he~~ the sheriff charges for 8311  
the execution of process of a substantively similar nature that is 8312  
issued in this state. 8313

**Sec. 317.32.** The county recorder shall charge and collect the 8314  
following fees, to include base fees for the recorder's services 8315  
and housing trust fund fees, collected pursuant to section 317.36 8316  
of the Revised Code: 8317

(A) For recording and indexing an instrument when the 8318  
photocopy or any similar process is employed, a base fee of 8319  
fourteen dollars for the first two pages and a housing trust fund 8320  
fee of fourteen dollars, and a base fee of four dollars and a 8321  
housing trust fund fee of four dollars for each subsequent page, 8322  
size eight and one-half inches by fourteen inches, or fraction of 8323  
a page, including the caption page, of such instrument; 8324

(B) For certifying a photocopy from the record previously 8325  
recorded, a base fee of one dollar and a housing trust fund fee of 8326  
one dollar per page, size eight and one-half inches by fourteen 8327  
inches, or fraction of a page; for each certification where the 8328  
recorder's seal is required, except as to instruments issued by 8329  
the armed forces of the United States, a base fee of fifty cents 8330  
and a housing trust fund fee of fifty cents; 8331

(C) For manual or typewritten recording of assignment or 8332  
satisfaction of mortgage or lease or any other marginal entry, a 8333  
base fee of four dollars and a housing trust fund fee of four 8334  
dollars; 8335

(D) For entering any marginal reference by separate recorded 8336  
instrument, a base fee of two dollars and a housing trust fund fee 8337  
of two dollars for each marginal reference set out in that 8338  
instrument, in addition to the ~~recording fee fees~~ set forth in 8339  
division (A) of this section; 8340

(E) For indexing in the real estate mortgage records, 8341  
pursuant to section 1309.519 of the Revised Code, financing 8342  
statements covering crops growing or to be grown, timber to be 8343  
cut, minerals or the like, including oil and gas, accounts subject 8344  
to section 1309.301 of the Revised Code, or fixture filings made 8345  
pursuant to section 1309.334 of the Revised Code, a base fee of 8346  
two dollars and a housing trust fund fee of two dollars for each 8347  
name indexed; 8348

(F) For recording manually any plat not exceeding six lines, 8349  
a base fee of two dollars and a housing trust fund fee of two 8350  
dollars, and for each additional line, a base fee of ten cents and 8351  
a housing trust fund fee of ten cents; 8352

(G) For filing zoning resolutions, including text and maps, 8353  
in the office of the recorder as required under sections 303.11 8354  
and 519.11 of the Revised Code, a base fee of fifty dollars and a 8355  
housing trust fund fee of fifty dollars, regardless of the size or 8356  
length of the resolutions; 8357

(H) For filing zoning amendments, including text and maps, in 8358  
the office of the recorder as required under sections 303.12 and 8359  
519.12 of the Revised Code, a base fee of ten dollars and a 8360  
housing trust fund fee of ten dollars for the first page and a 8361  
base fee of four dollars and a housing trust fund fee of four 8362

dollars for each additional page; 8363

(I) For photocopying a document, other than at the time of 8364  
recording and indexing as provided for in division (A) of this 8365  
section, a base fee of one dollar and a housing trust fund fee of 8366  
one dollar per page, size eight and one-half inches by fourteen 8367  
inches, or fraction thereof; 8368

(J) For local facsimile transmission of a document, a base 8369  
fee of one dollar and a housing trust fund fee of one dollar per 8370  
page, size eight and one-half inches by fourteen inches, or 8371  
fraction thereof; for long distance facsimile transmission of a 8372  
document, a base fee of two dollars and a housing trust fund fee 8373  
of two dollars per page, size eight and one-half inches by 8374  
fourteen inches, or fraction thereof; 8375

(K) For recording a declaration executed pursuant to section 8376  
2133.02 of the Revised Code or a durable power of attorney for 8377  
health care executed pursuant to section 1337.12 of the Revised 8378  
Code, or both a declaration and a durable power of attorney for 8379  
health care, a base fee of at least fourteen dollars but not more 8380  
than twenty dollars and a housing trust fund fee of at least 8381  
fourteen dollars but not more than twenty dollars. 8382

In any county in which the recorder employs the photostatic 8383  
or any similar process for recording maps, plats, or prints the 8384  
recorder shall determine, charge, and collect for the recording or 8385  
rerecording of any map, plat, or print, a base fee of five cents 8386  
and a housing trust fund fee of five cents per square inch, for 8387  
each square inch of the map, plat, or print filed for that 8388  
recording or rerecording, with a minimum base fee of twenty 8389  
dollars and a minimum housing trust fund fee of twenty dollars; 8390  
for certifying a copy from the record, a base fee of two cents and 8391  
a housing trust fund fee of two cents per square inch of the 8392  
record, with a minimum base fee of two dollars and a minimum 8393  
housing trust fund fee of two dollars. 8394

The fees provided in this section shall be paid upon the presentation of the instruments for record or upon the application for any certified copy of the record, except that the payment of fees associated with the filing and recording of, or the copying of, notices of internal revenue tax liens and notices of other liens in favor of the United States as described in division (A) of section 317.09 of the Revised Code and certificates of discharge or release of those liens, shall be governed by section 317.09 of the Revised Code, and the payment of fees for providing copies of instruments conveying or extinguishing agricultural easements to the office of farmland preservation in the department of agriculture under division ~~(G)~~(H) of section 5301.691 of the Revised Code shall be governed by that division.

Sec. 317.36. (A) The county recorder shall collect the low- and moderate-income housing trust fund fee as specified in sections 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, 5111.021, 5310.15, 5719.07, 5727.56, 5733.18, 5733.22, 6101.09, and 6115.09 of the Revised Code. The amount of any housing trust fund fee the recorder is authorized to collect is equal to the amount of any base fee the recorder is authorized to collect for services. The housing trust fund fee shall be collected in addition to the base fee.

(B) The recorder shall certify the amounts collected as housing trust fund fees pursuant to division (A) of this section into the county treasury as housing trust fund fees to be paid to the treasurer of state pursuant to section 319.63 of the Revised Code.

Sec. 319.63. (A) During the first thirty days of each calendar quarter, the county auditor shall pay to the treasurer of state all amounts that the county recorder collected as housing

trust fund fees pursuant to section 317.36 of the Revised Code 8425  
during the previous calendar quarter. If payment is made to the 8426  
treasurer of state within the first thirty days of the quarter, 8427  
the county auditor may retain an administrative fee of one per 8428  
cent of the amount of the trust fund fees collected during the 8429  
previous calendar quarter. 8430

(B) The treasurer of state shall deposit the first fifty 8431  
million dollars of housing trust fund fees received each year 8432  
pursuant to this section into the low- and moderate-income housing 8433  
trust fund, created under section 175.21 of the Revised Code, and 8434  
shall deposit any amounts received each year in excess of fifty 8435  
million dollars into the state general revenue fund. 8436

(C) The county auditor shall deposit the administrative fee 8437  
that the auditor is permitted to retain pursuant to division (A) 8438  
of this section into the county general fund for the county 8439  
recorder to use in administering the trust fund fee. 8440

**Sec. 321.24.** (A) On or before the fifteenth day of February, 8441  
in each year, the county treasurer shall settle with the county 8442  
auditor for all taxes and assessments that the treasurer has 8443  
collected on the general duplicate of real and public utility 8444  
property at the time of making the settlement. 8445

(B) On or before the thirtieth day of June, in each year, the 8446  
treasurer shall settle with the auditor for all advance payments 8447  
of general personal and classified property taxes that the 8448  
treasurer has received at the time of making the settlement. 8449

(C) On or before the tenth day of August, in each year, the 8450  
treasurer shall settle with the auditor for all taxes and 8451  
assessments that the treasurer has collected on the general 8452  
duplicates of real and public utility property at the time of 8453  
making such settlement, not included in the preceding February 8454  
settlement. 8455



(D) On or before the thirty-first day of October, in each year, the treasurer shall settle with the auditor for all taxes that the treasurer has collected on the general personal and classified property duplicates, and for all advance payments of general personal and classified property taxes, not included in the preceding June settlement, that the treasurer has received at the time of making such settlement.

(E) In the event the time for the payment of taxes is extended, pursuant to section 323.17 of the Revised Code, the date on or before which settlement for the taxes so extended must be made, as herein prescribed, shall be deemed to be extended for a like period of time. At each such settlement, the auditor shall allow to the treasurer, on the moneys received or collected and accounted for by the treasurer, the treasurer's fees, at the rate or percentage allowed by law, at a full settlement of the treasurer.

(F) Within thirty days after the day of each settlement of taxes required under divisions (A) and (C) of this section, the treasurer shall certify to the tax commissioner any adjustments which have been made to the amount certified previously pursuant to section 319.302 of the Revised Code and that the settlement has been completed. Upon receipt of such certification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to one-half of the amount certified by the treasurer in the preceding tax year under section 319.302 of the Revised Code, less one-half of the amount computed for all taxing districts in that county for the current fiscal year under section 5703.80 of the Revised Code for crediting to the property tax administration fund. Such payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall transfer to the county general fund from the amount thereof the total amount of all fees

and charges which the auditor and treasurer would have been 8488  
authorized to receive had such section not been in effect and that 8489  
amount had been levied and collected as taxes. The county auditor 8490  
shall distribute the amount remaining among the various taxing 8491  
districts in the county as if it had been levied, collected, and 8492  
settled as real property taxes. The amount distributed to each 8493  
taxing district shall be reduced by the total of the amounts 8494  
computed for the district under divisions (A), (B), and (C) of 8495  
section 5703.80 of the Revised Code, but the reduction shall not 8496  
exceed the amount that otherwise would be distributed to the 8497  
taxing district under this division. The tax commissioner shall 8498  
make available to taxing districts such information as is 8499  
sufficient for a taxing district to be able to determine the 8500  
amount of the reduction in its distribution under this section. 8501

(G)(1) Within thirty days after the day of the settlement 8502  
required in division (D) of this section, the county treasurer 8503  
shall ~~certify to~~ notify the tax commissioner that the settlement 8504  
has been completed. Upon receipt of that ~~certification~~ 8505  
notification, the commissioner shall provide for payment to the 8506  
county treasurer from the general revenue fund of an amount equal 8507  
to the amount certified under former section 319.311 of the 8508  
Revised Code ~~in the current year~~ and paid in the state's fiscal 8509  
year 2003 multiplied by the percentage specified in division 8510  
(G)(2) of this section. The payment shall be credited upon receipt 8511  
to the county's undivided income tax fund, and the county auditor 8512  
shall distribute the amount thereof among the various taxing 8513  
districts of the county as if it had been levied, collected, and 8514  
settled as personal property taxes. The amount received by a 8515  
taxing district under this division shall be apportioned among its 8516  
funds in the same proportion as the current year's personal 8517  
property taxes are apportioned. 8518

(2) Payments required under division (G)(1) of this section 8519

shall be made at the following percentages of the amount certified 8520  
under former section 319.311 of the Revised Code and paid under 8521  
division (G)(1) of this section in the state's fiscal year 2003: 8522

(a) In fiscal year 2004, ninety per cent; 8523

(b) In fiscal year 2005, eighty per cent; 8524

(c) In fiscal year 2006, seventy per cent; 8525

(d) In fiscal year 2007, sixty per cent; 8526

(e) In fiscal year 2008, fifty per cent; 8527

(f) In fiscal year 2009, forty per cent; 8528

(g) In fiscal year 2010, thirty per cent; 8529

(h) In fiscal year 2011, twenty per cent; 8530

(i) In fiscal year 2012, ten per cent. 8531

After fiscal year 2012, no payments shall be made under 8532  
division (G)(1) of this section. 8533

(H)(1) On or before the fifteenth day of April each year, the 8534  
county treasurer shall settle with the county auditor for all 8535  
manufactured home taxes that the county treasurer has collected on 8536  
the manufactured home tax duplicate at the time of making the 8537  
settlement. 8538

(2) On or before the fifteenth day of September each year, 8539  
the county treasurer shall settle with the county auditor for all 8540  
remaining manufactured home taxes that the county treasurer has 8541  
collected on the manufactured home tax duplicate at the time of 8542  
making the settlement. 8543

(3) If the time for payment of such taxes is extended under 8544  
section 4503.06 of the Revised Code, the time for making the 8545  
settlement as prescribed by divisions (H)(1) and (2) of this 8546  
section is extended for a like period of time. 8547

Sec. 323.01. Except as otherwise provided, as used in Chapter	8548
323. of the Revised Code:	8549
(A) "Subdivision" means any county, township, school	8550
district, or municipal corporation.	8551
(B) "Municipal corporation" includes charter municipalities.	8552
(C) "Taxes" means the total amount of all charges against an	8553
entry appearing on a tax list and the duplicate thereof that was	8554
prepared and certified in accordance with section 319.28 of the	8555
Revised Code, including taxes levied against real estate; taxes on	8556
property whose value is certified pursuant to section 5727.23 of	8557
the Revised Code; recoupment charges applied pursuant to section	8558
5713.35 of the Revised Code; all assessments; penalties and	8559
interest charged pursuant to section 323.121 of the Revised Code;	8560
charges added pursuant to section 319.35 of the Revised Code; and	8561
all of such charges which remain unpaid from any previous tax	8562
year.	8563
(D) "Current taxes" means all taxes charged against an entry	8564
on the general tax list and duplicate of real and public utility	8565
property that have not appeared on such list and duplicate for any	8566
prior tax year and any penalty thereon charged by division (A) of	8567
section 323.121 of the Revised Code. Current taxes, whether or not	8568
they have been certified delinquent, become delinquent taxes if	8569
they remain unpaid after the last day prescribed for payment of	8570
the second installment of current taxes without penalty.	8571
(E) "Delinquent taxes" means:	8572
(1) Any taxes charged against an entry on the general tax	8573
list and duplicate of real and public utility property that were	8574
charged against an entry on such list and duplicate for a prior	8575
tax year and any penalties and interest charged against such	8576
taxes.	8577

(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 taxes, the calendar year in which the first installment of taxes is due prior to any extension granted under section 323.17 of the Revised Code.

(G) "Liquidated claim" means:

(1) Any sum of money due and payable, upon a written contractual obligation executed between the subdivision and the taxpayer, but excluding any amount due on general and special assessment bonds and notes;

(2) Any sum of money due and payable, for disability financial assistance or disability medical assistance provided under Chapter 5115. of the Revised Code that is furnished to or in behalf of a subdivision, provided that such claim is recognized by a resolution or ordinance of the legislative body of such subdivision;

(3) Any sum of money advanced and paid to or received and used by a subdivision, pursuant to a resolution or ordinance of such subdivision or its predecessor in interest, and the moral obligation to repay which sum, when in funds, shall be recognized by resolution or ordinance by the subdivision.

**Sec. 325.31.** (A) On the first business day of each month, and at the end of the officer's term of office, each officer named in section 325.27 of the Revised Code shall pay into the county treasury, to the credit of the general county fund, on the warrant

of the county auditor, all fees, costs, penalties, percentages, 8608  
allowances, and perquisites collected by the officer's office 8609  
during the preceding month or part thereof for official services, 8610  
except the fees allowed the county auditor by division (B) of 8611  
section 319.54 of the Revised Code, which shall be paid into the 8612  
county treasury to the credit of the real estate assessment fund 8613  
hereby created. 8614

(B) Moneys to the credit of the real estate assessment fund 8615  
may be expended, upon appropriation by the board of county 8616  
commissioners, for the purpose of defraying the one or more of the 8617  
following: 8618

(1) The cost incurred by the county auditor in assessing real 8619  
estate pursuant to Chapter 5713. of the Revised Code and 8620  
manufactured and mobile homes pursuant to Chapter 4503. of the 8621  
Revised Code, and, at; 8622

(2) At the county auditor's discretion, costs and expenses 8624  
incurred by the county auditor in preparing the list of real and 8625  
public utility property, in administering laws related to the 8626  
taxation of real property and the levying of special assessments 8627  
on real property, including administering reductions under 8628  
Chapters 319. and 323. and section 4503.065 of the Revised Code, 8629  
and to support assessments of real property in any administrative 8630  
or judicial proceeding; 8631

(3) At the county auditor's discretion, the expenses incurred 8632  
by the county board of revision under Chapter 5715. of the Revised 8633  
Code. ~~Any;~~ 8634

(4) At the county auditor's discretion, the expenses incurred 8635  
by the county auditor for geographic information systems, mapping 8636  
programs, and technological advances in those or similar systems 8637  
or programs; 8638

(5) At the county auditor's discretion, expenses incurred by 8639  
the county auditor in compiling the general tax list of personal 8640  
property and collecting tangible personal property taxes under 8641  
Chapters 5711. and 5719. of the Revised Code; 8642

(6) At the county auditor's discretion, costs, expenses, and 8643  
fees incurred by the county auditor in the collection of estate 8644  
taxes under Chapter 5731. of the Revised Code. 8645

Any expenditures made from the real estate assessment fund 8646  
shall comply with rules that the tax commissioner adopts under 8647  
division (O) of section 5703.05 of the Revised Code. Those rules 8648  
shall include a requirement that a copy of any appraisal plans, 8649  
progress of work reports, contracts, or other documents required 8650  
to be filed with the tax commissioner shall be filed also with the 8651  
board of county commissioners. 8652

The board of county commissioners shall not transfer moneys 8653  
required to be deposited in the real estate assessment fund to any 8654  
other fund. Following an assessment of real property pursuant to 8655  
Chapter 5713. of the Revised Code, or an assessment of a 8656  
manufactured or mobile home pursuant to Chapter 4503. of the 8657  
Revised Code, any moneys not expended for the purpose of defraying 8658  
the cost incurred in assessing real estate or manufactured or 8659  
mobile homes, or for costs related to county tax maps, or for the 8660  
purpose of defraying the expenses ~~of the county board of revision~~ 8661  
described in divisions (B)(2), (3), (4), (5), and (6) of this 8662  
section, and thereby remaining to the credit of the real estate 8663  
assessment fund, shall be apportioned ratably and distributed to 8664  
those taxing authorities that contributed to the fund. However, no 8665  
such distribution shall be made if the amount of such unexpended 8666  
moneys remaining to the credit of the real estate assessment fund 8667  
does not exceed five thousand dollars. 8668

(C) None of the officers named in section 325.27 of the 8669

Revised Code shall collect any fees from the county. Each of such 8670  
officers shall, at the end of each calendar year, make and file a 8671  
sworn statement with the board of county commissioners of all such 8672  
fees, costs, penalties, percentages, allowances, and perquisites 8673  
which have been due in the officer's office and unpaid for more 8674  
than one year prior to the date such statement is required to be 8675  
made. 8676

**Sec. 329.03.** (A) As used in this section: 8677

(1) "Applicant" or "recipient" means an applicant for or 8678  
participant in the Ohio works first program established under 8679  
Chapter 5107. of the Revised Code or an applicant for or recipient 8680  
of disability financial assistance under Chapter 5115. of the 8681  
Revised Code. 8682

(2) "Voluntary direct deposit" means a system established 8683  
pursuant to this section under which cash assistance payments to 8684  
recipients who agree to direct deposit are made by direct deposit 8685  
by electronic transfer to an account in a financial institution 8686  
designated under this section. 8687

(3) "Mandatory direct deposit" means a system established 8688  
pursuant to this section under which cash assistance payments to 8689  
all participants in the Ohio works first program or recipients of 8690  
disability financial assistance, other than those exempt under 8691  
division (E) of this section, are made by direct deposit by 8692  
electronic transfer to an account in a financial institution 8693  
designated under this section. 8694

(B) A board of county commissioners may by adoption of a 8695  
resolution require the county department of job and family 8696  
services to establish a direct deposit system for distributing 8697  
cash assistance payments under Ohio works first, disability 8698  
financial assistance, or both, unless the director of job and 8699  
family services has provided for those payments to be made by 8700



electronic benefit transfer pursuant to section 5101.33 of the Revised Code. Voluntary or mandatory direct deposit may be applied to either of the programs. The resolution shall specify for each program for which direct deposit is to be established whether direct deposit is voluntary or mandatory. The board may require the department to change or terminate direct deposit by adopting a resolution to change or terminate it. Within ninety days after adopting a resolution under this division, the board shall certify one copy of the resolution to the director of job and family services and one copy to the office of budget and management. The director of job and family services may adopt rules governing establishment of direct deposit by county departments of job and family services.

The county department of job and family services shall determine what type of account will be used for direct deposit and negotiate with financial institutions to determine the charges, if any, to be imposed by a financial institution for establishing and maintaining such accounts. Under voluntary direct deposit, the county department of job and family services may pay all charges imposed by a financial institution for establishing and maintaining an account in which direct deposits are made for a recipient. Under mandatory direct deposit, the county department of job and family services shall pay all charges imposed by a financial institution for establishing and maintaining such an account. No financial institution shall impose any charge for such an account that the institution does not impose on its other customers for the same type of account. Direct deposit does not affect the exemption of Ohio works first and disability financial assistance from attachment, garnishment, or other like process afforded by sections 5107.75 and ~~5115.07~~ 5115.06 of the Revised Code.

(C) The county department of job and family services shall,

within sixty days after a resolution requiring the establishment 8733  
of direct deposit is adopted, establish procedures governing 8734  
direct deposit. 8735

Within one hundred eighty days after the resolution is 8736  
adopted, the county department shall: 8737

(1) Inform each applicant or recipient of the procedures 8738  
governing direct deposit, including in the case of voluntary 8739  
direct deposit those that prescribe the conditions under which a 8740  
recipient may change from one method of payment to another; 8741

(2) Obtain from each applicant or recipient an authorization 8742  
form to designate a financial institution equipped for and 8743  
authorized by law to accept direct deposits by electronic transfer 8744  
and the account into which the applicant or recipient wishes the 8745  
payments to be made, or in the case of voluntary direct deposit 8746  
states the applicant's or recipient's election to receive such 8747  
payments in the form of a paper warrant. 8748

The department may require a recipient to complete a new 8749  
authorization form whenever the department considers it necessary. 8750

A recipient's designation of a financial institution and 8751  
account shall remain in effect until withdrawn in writing or 8752  
dishonored by the financial institution, except that no change may 8753  
be made in the authorization form until the next eligibility 8754  
redetermination of the recipient unless the department feels that 8755  
good grounds exist for an earlier change. 8756

(D) An applicant or recipient without an account who either 8757  
agrees or is required to receive payments by direct deposit shall 8758  
have ten days after receiving the authorization form to designate 8759  
an account suitable for direct deposit. If within the required 8760  
time the applicant or recipient does not make the designation or 8761  
requests that the department make the designation, the department 8762  
shall designate a financial institution and help the recipient to 8763

open an account. 8764

(E) At the time of giving an applicant or recipient the 8765  
authorization form, the county department of job and family 8766  
services of a county with mandatory direct deposit shall inform 8767  
each applicant or recipient of the basis for exemption and the 8768  
right to request exemption from direct deposit. 8769

Under mandatory direct deposit, an applicant or recipient who 8770  
wishes to receive payments in the form of a paper warrant shall 8771  
record on the authorization form a request for exemption under 8772  
this division and the basis for the exemption. 8773

The department shall exempt from mandatory direct deposit any 8774  
recipient who requests exemption and is any of the following: 8775

(1) Over age sixty-five; 8776

(2) Blind or disabled; 8777

(3) Likely, in the judgment of the department, to be caused 8778  
personal hardship by direct deposit. 8779

A recipient granted an exemption under this division shall 8780  
receive payments for which the recipient is eligible in the form 8781  
of paper warrants. 8782

(F) The county department of job and family services shall 8783  
bear the full cost of the amount of any replacement warrant issued 8784  
to a recipient for whom an authorization form as provided in this 8785  
section has not been obtained within one hundred eighty days after 8786  
the later of the date the board of county commissioners adopts a 8787  
resolution requiring payments of financial assistance by direct 8788  
deposit to accounts of recipients of Ohio works first or 8789  
disability financial assistance or the date the recipient made 8790  
application for assistance, and shall not be reimbursed by the 8791  
state for any part of the cost. Thereafter, the county department 8792  
of job and family services shall continue to bear the full cost of 8793

each replacement warrant issued until the board of county 8794  
commissioners requires the county department of job and family 8795  
services to obtain from each such recipient the authorization 8796  
forms as provided in this section. 8797

**Sec. 329.04.** (A) The county department of job and family 8798  
services shall have, exercise, and perform the following powers 8799  
and duties: 8800

(1) Perform any duties assigned by the state department of 8801  
job and family services regarding the provision of public family 8802  
services, including the provision of the following services to 8803  
prevent or reduce economic or personal dependency and to 8804  
strengthen family life: 8805

(a) Services authorized by a Title IV-A program, as defined 8806  
in section 5101.80 of the Revised Code; 8807

(b) Social services authorized by Title XX of the "Social 8808  
Security Act" and provided for by section 5101.46 of the Revised 8809  
Code; 8810

(c) If the county department is designated as the child 8811  
support enforcement agency, services authorized by Title IV-D of 8812  
the "Social Security Act" and provided for by Chapter 3125. of the 8813  
Revised Code. The county department may perform the services 8814  
itself or contract with other government entities, and, pursuant 8815  
to division (C) of section 2301.35 and section 2301.42 of the 8816  
Revised Code, private entities, to perform the Title IV-D 8817  
services. 8818

(2) Administer disability financial assistance ~~under Chapter~~ 8819  
~~5115. of the Revised Code,~~ as required by the state department of 8820  
job and family services under section 5115.03 of the Revised Code; 8821

(3) Administer disability medical assistance, as required by 8822  
the state department of job and family services under section 8823

<u>5115.13 of the Revised Code;</u>	8824
<del>(3)</del> (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;	8825 8826 8827
<del>(4)</del> (5) Cooperate with state and federal authorities in any matter relating to family services and to act as the agent of such authorities;	8828 8829 8830
<del>(5)</del> (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;	8831 8832 8833
<del>(6)</del> (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;	8834 8835 8836 8837 8838
<del>(7)</del> (8) Determine the eligibility for medical assistance of recipients of aid under Title XVI of the "Social Security Act";	8839 8840
<del>(8)</del> (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;	8841 8842 8843 8844
<del>(9)</del> (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;	8845 8846 8847 8848 8849 8850 8851 8852
<del>(10)</del> (11) For the purpose of complying with a partnership	8853

agreement the board of county commissioners enters into under 8854  
section 307.98 of the Revised Code, exercise the powers and 8855  
perform the duties the partnership agreement assigns to the county 8856  
department; 8857

~~(11)~~(12) If the county department is designated as the 8858  
workforce development agency, provide the workforce development 8859  
activities specified in the contract required by section 330.05 of 8860  
the Revised Code. 8861

(B) The powers and duties of a county department of job and 8862  
family services are, and shall be exercised and performed, under 8863  
the control and direction of the board of county commissioners. 8864  
The board may assign to the county department any power or duty of 8865  
the board regarding family services and workforce development 8866  
activities. If the new power or duty necessitates the state 8867  
department of job and family services changing its federal cost 8868  
allocation plan, the county department may not implement the power 8869  
or duty unless the United States department of health and human 8870  
services approves the changes. 8871

**Sec. 329.051.** The county department of job and family 8872  
services shall make voter registration applications as prescribed 8873  
by the secretary of state under section 3503.10 of the Revised 8874  
Code available to persons who are applying for, receiving 8875  
assistance from, or participating in any of the following: 8876

(A) The disability financial assistance program established 8877  
under Chapter 5115. of the Revised Code; 8878

(B) The disability medical assistance program established 8879  
under Chapter 5115. of the Revised Code; 8880

(C) The medical assistance program established under Chapter 8881  
5111. of the Revised Code; 8882

~~(C)~~(D) The Ohio works first program established under Chapter 8883

5107. of the Revised Code; 8884

~~(D)~~(E) The prevention, retention, and contingency program 8885  
established under Chapter 5108. of the Revised Code. 8886

**Sec. 340.021.** (A) In an alcohol, drug addiction, and mental 8887  
health service district comprised of a county with a population of 8888  
two hundred fifty thousand or more on ~~the effective date of this~~ 8889  
~~section~~ October 10, 1989, the board of county commissioners shall, 8890  
within thirty days of ~~the effective date of this section~~ October 8891  
10, 1989, establish an alcohol and drug addiction services board 8892  
as the entity responsible for providing alcohol and drug addiction 8893  
services in the county, unless, prior to that date, the board 8894  
adopts a resolution providing that the entity responsible for 8895  
providing the services is a board of alcohol, drug addiction, and 8896  
mental health services. If the board of county commissioners 8897  
establishes an alcohol and drug addiction services board, the 8898  
community mental health board established under former section 8899  
340.02 of the Revised Code shall serve as the entity responsible 8900  
for providing mental health services in the county. A community 8901  
mental health board has all the powers, duties, and obligations of 8902  
a board of alcohol, drug addiction, and mental health services 8903  
with regard to mental health services. An alcohol and drug 8904  
addiction services board has all the powers, duties, and 8905  
obligations of a board of alcohol, drug addiction, and mental 8906  
health services with regard to alcohol and drug addiction 8907  
services. Any provision of the Revised Code that refers to a board 8908  
of alcohol, drug addiction, and mental health services with regard 8909  
to mental health services also refers to a community mental health 8910  
board and any provision that refers to a board of alcohol, drug 8911  
addiction, and mental health services with regard to alcohol and 8912  
drug addiction services also refers to an alcohol and drug 8913  
addiction services board. 8914

An alcohol and drug addiction services board shall consist of 8915  
eighteen members, six of whom shall be appointed by the director 8916  
of alcohol and drug addiction services and twelve of whom shall be 8917  
appointed by the board of county commissioners. Of the members 8918  
appointed by the director, one shall be a person who has received 8919  
or is receiving services for alcohol or drug addiction, one shall 8920  
be a parent or relative of such a person, one shall be a 8921  
professional in the field of alcohol or drug addiction services, 8922  
and one shall be an advocate for persons receiving treatment for 8923  
alcohol or drug addiction. The membership of the board shall, as 8924  
nearly as possible, reflect the composition of the population of 8925  
the service district as to race and sex. Members shall be 8926  
residents of the service district and shall be interested in 8927  
alcohol and drug addiction services. Requirements for membership, 8928  
including prohibitions against certain family and business 8929  
relationships, and terms of office shall be the same as those for 8930  
members of boards of alcohol, drug addiction, and mental health 8931  
services. 8932

~~(B)~~ A community mental health board shall consist of eighteen 8933  
members, six of whom shall be appointed by the director of mental 8934  
health and twelve of whom shall be appointed by the board of 8935  
county commissioners. Of the members appointed by the director, 8936  
one shall be a person who has received or is receiving mental 8937  
health services, one shall be a parent or relative of such a 8938  
person, one shall be a psychiatrist or a physician, and one shall 8939  
be a mental health professional. The membership of the board as 8940  
nearly as possible shall reflect the composition of the population 8941  
of the service district as to race and sex. Members shall be 8942  
residents of the service district and shall be interested in 8943  
mental health services. Requirements for membership, including 8944  
prohibitions against certain family and business relationships, 8945  
and terms of office shall be the same as those for members of 8946



boards of alcohol, drug addiction, and mental health services. 8947

(B) If a board of county commissioners subject to division 8948  
(A) of this section did not adopt a resolution providing for a 8949  
board of alcohol, drug addiction, and mental health services, the 8950  
board of county commissioners may adopt a resolution providing for 8951  
such a board, subject to both of the following: 8952

(1) The resolution shall be adopted not later than January 1, 8953  
2004. 8954

(2) Before adopting the resolution, the board of county 8955  
commissioners shall provide notice of the proposed resolution to 8956  
the alcohol and drug services board and the community mental 8957  
health board and shall provide both boards an opportunity to 8958  
comment on the proposed resolution. 8959

**Sec. 340.03.** (A) Subject to rules issued by the director of 8960  
mental health after consultation with relevant constituencies as 8961  
required by division (A)(11) of section 5119.06 of the Revised 8962  
Code, with regard to mental health services, the board of alcohol, 8963  
drug addiction, and mental health services shall: 8964

(1) Serve as the community mental health planning agency for 8965  
the county or counties under its jurisdiction, and in so doing it 8966  
shall: 8967

(a) Evaluate the need for facilities and community mental 8968  
health services; 8969

(b) In cooperation with other local and regional planning and 8970  
funding bodies and with relevant ethnic organizations, assess the 8971  
community mental health needs, set priorities, and develop plans 8972  
for the operation of facilities and community mental health 8973  
services; 8974

(c) In accordance with guidelines issued by the director of 8975  
mental health after consultation with board representatives, 8976

develop and submit to the department of mental health, no later 8977  
than six months prior to the conclusion of the fiscal year in 8978  
which the board's current plan is scheduled to expire, a community 8979  
mental health plan listing community mental health needs, 8980  
including the needs of all residents of the district now residing 8981  
in state mental institutions and severely mentally disabled 8982  
adults, children, and adolescents; all children subject to a 8983  
determination made pursuant to section 121.38 of the Revised Code; 8984  
and all the facilities and community mental health services that 8985  
are or will be in operation or provided during the period for 8986  
which the plan will be in operation in the service district to 8987  
meet such needs. 8988

The plan shall include, but not be limited to, a statement of 8989  
which of the services listed in section 340.09 of the Revised Code 8990  
the board intends to provide or purchase, an explanation of how 8991  
the board intends to make any payments that it may be required to 8992  
pay under section 5119.62 of the Revised Code, a statement of the 8993  
inpatient and community-based services the board proposes that the 8994  
department operate, an assessment of the number and types of 8995  
residential facilities needed, and such other information as the 8996  
department requests, and a budget for moneys the board expects to 8997  
receive. The board shall also submit an allocation request for 8998  
state and federal funds. Within sixty days after the department's 8999  
determination that the plan and allocation request are complete, 9000  
the department shall approve or disapprove the plan and request, 9001  
in whole or in part, according to the criteria developed pursuant 9002  
to section 5119.61 of the Revised Code. The department's statement 9003  
of approval or disapproval shall specify the inpatient and the 9004  
community-based services that the department will operate for the 9005  
board. Eligibility for financial support shall be contingent upon 9006  
an approved plan or relevant part of a plan. 9007

If the director disapproves all or part of any plan, the 9008

director shall inform the board of the reasons for the disapproval 9009  
and of the criteria that must be met before the plan may be 9010  
approved. The director shall provide the board an opportunity to 9011  
present its case on behalf of the plan. The director shall give 9012  
the board a reasonable time in which to meet the criteria, and 9013  
shall offer the board technical assistance to help it meet the 9014  
criteria. 9015

If the approval of a plan remains in dispute thirty days 9016  
prior to the conclusion of the fiscal year in which the board's 9017  
current plan is scheduled to expire, the board or the director may 9018  
request that the dispute be submitted to a mutually agreed upon 9019  
third-party mediator with the cost to be shared by the board and 9020  
the department. The mediator shall issue to the board and the 9021  
department recommendations for resolution of the dispute. Prior to 9022  
the conclusion of the fiscal year in which the current plan is 9023  
scheduled to expire, the director, taking into consideration the 9024  
recommendations of the mediator, shall make a final determination 9025  
and approve or disapprove the plan, in whole or in part. 9026

If a board determines that it is necessary to amend a plan or 9027  
an allocation request that has been approved under division 9028  
(A)(1)(c) of this section, the board shall submit a proposed 9029  
amendment to the director. The director may approve or disapprove 9030  
all or part of the amendment. If the director does not approve all 9031  
or part of the amendment within thirty days after it is submitted, 9032  
the amendment or part of it shall be considered to have been 9033  
approved. The director shall inform the board of the reasons for 9034  
disapproval of all or part of an amendment and of the criteria 9035  
that must be met before the amendment may be approved. The 9036  
director shall provide the board an opportunity to present its 9037  
case on behalf of the amendment. The director shall give the board 9038  
a reasonable time in which to meet the criteria, and shall offer 9039  
the board technical assistance to help it meet the criteria. 9040

The board shall implement the plan approved by the 9041  
department. 9042

(d) Receive, compile, and transmit to the department of 9043  
mental health applications for state reimbursement; 9044

(e) Promote, arrange, and implement working agreements with 9045  
social agencies, both public and private, and with judicial 9046  
agencies. 9047

(2) Investigate, or request another agency to investigate, 9048  
any complaint alleging abuse or neglect of any person receiving 9049  
services from a community mental health agency as defined in 9050  
section 5122.01 of the Revised Code, or from a residential 9051  
facility licensed under section 5119.22 of the Revised Code. If 9052  
the investigation substantiates the charge of abuse or neglect, 9053  
the board shall take whatever action it determines is necessary to 9054  
correct the situation, including notification of the appropriate 9055  
authorities. Upon request, the board shall provide information 9056  
about such investigations to the department. 9057

(3) For the purpose of section 5119.611 of the Revised Code, 9058  
cooperate with the director of mental health in visiting and 9059  
evaluating whether the services of a community mental health 9060  
agency satisfy the certification standards established by rules 9061  
adopted under that section; 9062

(4) In accordance with criteria established under division 9063  
(G) of section 5119.61 of the Revised Code, review and evaluate 9064  
the quality, effectiveness, and efficiency of services provided 9065  
through its community mental health plan and submit its findings 9066  
and recommendations to the department of mental health; 9067

(5) In accordance with section 5119.22 of the Revised Code, 9068  
review applications for residential facility licenses and 9069  
recommend to the department of mental health approval or 9070  
disapproval of applications; 9071

(6) Audit, in accordance with rules adopted by the auditor of 9072  
state pursuant to section 117.20 of the Revised Code, at least 9073  
annually all programs and services provided under contract with 9074  
the board. In so doing, the board may contract for or employ the 9075  
services of private auditors. A copy of the fiscal audit report 9076  
shall be provided to the director of mental health, the auditor of 9077  
state, and the county auditor of each county in the board's 9078  
district. 9079

(7) Recruit and promote local financial support for mental 9080  
health programs from private and public sources; 9081

(8)(a) Enter into contracts with public and private 9082  
facilities for the operation of facility services included in the 9083  
board's community mental health plan and enter into contracts with 9084  
public and private community mental health agencies for the 9085  
provision of community mental health services listed in section 9086  
340.09 of the Revised Code and included in the board's community 9087  
mental health plan. Contracts with community mental health 9088  
agencies are subject to section 5119.611 of the Revised Code. 9089  
Section 307.86 of the Revised Code does not apply to contracts 9090  
entered into under this division. In contracting with a community 9091  
mental health agency, a board shall consider the cost 9092  
effectiveness of services provided by that agency and the quality 9093  
and continuity of care, and may review cost elements, including 9094  
salary costs, of the services to be provided. A utilization review 9095  
process shall be established as part of the contract for services 9096  
entered into between a board and a community mental health agency. 9097  
The board may establish this process in a way that is most 9098  
effective and efficient in meeting local needs. In the case of a 9099  
contract with a community mental health facility ~~described, as~~ 9100  
defined in ~~division (B) of~~ section 5111.022 of the Revised Code, 9101  
to provide services ~~established by~~ listed in division ~~(A)(B)~~ of 9102  
that section, the contract shall provide for the facility to be 9103

paid in accordance with the contract entered into between the 9104  
departments of job and family services and mental health under 9105  
~~division (E) of that~~ section 5111.91 of the Revised Code and any 9106  
rules adopted under division (A) of section 5119.61 of the Revised 9107  
Code. 9108

If either the board or a facility or community mental health 9109  
agency with which the board contracts under division (A)(8)(a) of 9110  
this section proposes not to renew the contract or proposes 9111  
substantial changes in contract terms, the other party shall be 9112  
given written notice at least one hundred twenty days before the 9113  
expiration date of the contract. During the first sixty days of 9114  
this one hundred twenty-day period, both parties shall attempt to 9115  
resolve any dispute through good faith collaboration and 9116  
negotiation in order to continue to provide services to persons in 9117  
need. If the dispute has not been resolved sixty days before the 9118  
expiration date of the contract, either party may notify the 9119  
department of mental health of the unresolved dispute. The 9120  
director may require both parties to submit the dispute to a third 9121  
party with the cost to be shared by the board and the facility or 9122  
community mental health agency. The third party shall issue to the 9123  
board, the facility or agency, and the department recommendations 9124  
on how the dispute may be resolved twenty days prior to the 9125  
expiration date of the contract, unless both parties agree to a 9126  
time extension. The director shall adopt rules establishing the 9127  
procedures of this dispute resolution process. 9128

(b) With the prior approval of the director of mental health, 9129  
a board may operate a facility or provide a community mental 9130  
health service as follows, if there is no other qualified private 9131  
or public facility or community mental health agency that is 9132  
immediately available and willing to operate such a facility or 9133  
provide the service: 9134

(i) In an emergency situation, any board may operate a 9135

facility or provide a community mental health service in order to 9136  
provide essential services for the duration of the emergency; 9137

(ii) In a service district with a population of at least one 9138  
hundred thousand but less than five hundred thousand, a board may 9139  
operate a facility or provide a community mental health service 9140  
for no longer than one year; 9141

(iii) In a service district with a population of less than 9142  
one hundred thousand, a board may operate a facility or provide a 9143  
community mental health service for no longer than one year, 9144  
except that such a board may operate a facility or provide a 9145  
community mental health service for more than one year with the 9146  
prior approval of the director and the prior approval of the board 9147  
of county commissioners, or of a majority of the boards of county 9148  
commissioners if the district is a joint-county district. 9149

The director shall not give a board approval to operate a 9150  
facility or provide a community mental health service under 9151  
division (A)(8)(b)(ii) or (iii) of this section unless the 9152  
director determines that it is not feasible to have the department 9153  
operate the facility or provide the service. 9154

The director shall not give a board approval to operate a 9155  
facility or provide a community mental health service under 9156  
division (A)(8)(b)(iii) of this section unless the director 9157  
determines that the board will provide greater administrative 9158  
efficiency and more or better services than would be available if 9159  
the board contracted with a private or public facility or 9160  
community mental health agency. 9161

The director shall not give a board approval to operate a 9162  
facility previously operated by a person or other government 9163  
entity unless the board has established to the director's 9164  
satisfaction that the person or other government entity cannot 9165  
effectively operate the facility or that the person or other 9166

government entity has requested the board to take over operation 9167  
of the facility. The director shall not give a board approval to 9168  
provide a community mental health service previously provided by a 9169  
community mental health agency unless the board has established to 9170  
the director's satisfaction that the agency cannot effectively 9171  
provide the service or that the agency has requested the board 9172  
take over providing the service. 9173

The director shall review and evaluate a board's operation of 9174  
a facility and provision of community mental health service under 9175  
division (A)(8)(b) of this section. 9176

Nothing in division (A)(8)(b) of this section authorizes a 9177  
board to administer or direct the daily operation of any facility 9178  
or community mental health agency, but a facility or agency may 9179  
contract with a board to receive administrative services or staff 9180  
direction from the board under the direction of the governing body 9181  
of the facility or agency. 9182

(9) Approve fee schedules and related charges or adopt a unit 9183  
cost schedule or other methods of payment for contract services 9184  
provided by community mental health agencies in accordance with 9185  
guidelines issued by the department as necessary to comply with 9186  
state and federal laws pertaining to financial assistance; 9187

(10) Submit to the director and the county commissioners of 9188  
the county or counties served by the board, and make available to 9189  
the public, an annual report of the programs under the 9190  
jurisdiction of the board, including a fiscal accounting; 9191

(11) Establish, to the extent resources are available, a 9192  
community support system, which provides for treatment, support, 9193  
and rehabilitation services and opportunities. The essential 9194  
elements of the system include, but are not limited to, the 9195  
following components in accordance with section 5119.06 of the 9196  
Revised Code: 9197



(a) To locate persons in need of mental health services to inform them of available services and benefits mechanisms;	9198 9199
(b) Assistance for clients to obtain services necessary to meet basic human needs for food, clothing, shelter, medical care, personal safety, and income;	9200 9201 9202
(c) Mental health care, including, but not limited to, outpatient, partial hospitalization, and, where appropriate, inpatient care;	9203 9204 9205
(d) Emergency services and crisis intervention;	9206
(e) Assistance for clients to obtain vocational services and opportunities for jobs;	9207 9208
(f) The provision of services designed to develop social, community, and personal living skills;	9209 9210
(g) Access to a wide range of housing and the provision of residential treatment and support;	9211 9212
(h) Support, assistance, consultation, and education for families, friends, consumers of mental health services, and others;	9213 9214 9215
(i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and meaningful employment as natural supports for consumers of mental health services;	9216 9217 9218 9219 9220
(j) Grievance procedures and protection of the rights of consumers of mental health services;	9221 9222
(k) Case management, which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured.	9223 9224 9225
(12) Designate the treatment program, agency, or facility for	9226

each person involuntarily committed to the board pursuant to 9227  
Chapter 5122. of the Revised Code and authorize payment for such 9228  
treatment. The board shall provide the least restrictive and most 9229  
appropriate alternative that is available for any person 9230  
involuntarily committed to it and shall assure that the services 9231  
listed in section 340.09 of the Revised Code are available to 9232  
severely mentally disabled persons residing within its service 9233  
district. The board shall establish the procedure for authorizing 9234  
payment for services, which may include prior authorization in 9235  
appropriate circumstances. The board may provide for services 9236  
directly to a severely mentally disabled person when life or 9237  
safety is endangered and when no community mental health agency is 9238  
available to provide the service. 9239

(13) Establish a method for evaluating referrals for 9240  
involuntary commitment and affidavits filed pursuant to section 9241  
5122.11 of the Revised Code in order to assist the probate 9242  
division of the court of common pleas in determining whether there 9243  
is probable cause that a respondent is subject to involuntary 9244  
hospitalization and what alternative treatment is available and 9245  
appropriate, if any; 9246

(14) Ensure that apartments or rooms built, subsidized, 9247  
renovated, rented, owned, or leased by the board or a community 9248  
mental health agency have been approved as meeting minimum fire 9249  
safety standards and that persons residing in the rooms or 9250  
apartments are receiving appropriate and necessary services, 9251  
including culturally relevant services, from a community mental 9252  
health agency. This division does not apply to residential 9253  
facilities licensed pursuant to section 5119.22 of the Revised 9254  
Code. 9255

(15) Establish a mechanism for involvement of consumer 9256  
recommendation and advice on matters pertaining to mental health 9257  
services in the alcohol, drug addiction, and mental health service 9258

district; 9259

(16) Perform the duties under section 3722.18 of the Revised 9260  
Code required by rules adopted under section 5119.61 of the 9261  
Revised Code regarding referrals by the board or mental health 9262  
agencies under contract with the board of individuals with mental 9263  
illness or severe mental disability to adult care facilities and 9264  
effective arrangements for ongoing mental health services for the 9265  
individuals. The board is accountable in the manner specified in 9266  
the rules for ensuring that the ongoing mental health services are 9267  
effectively arranged for the individuals. 9268

(B) The board shall establish such rules, operating 9269  
procedures, standards, and bylaws, and perform such other duties 9270  
as may be necessary or proper to carry out the purposes of this 9271  
chapter. 9272

(C) A board of alcohol, drug addiction, and mental health 9273  
services may receive by gift, grant, devise, or bequest any 9274  
moneys, lands, or property for the benefit of the purposes for 9275  
which the board is established, and may hold and apply it 9276  
according to the terms of the gift, grant, or bequest. All money 9277  
received, including accrued interest, by gift, grant, or bequest 9278  
shall be deposited in the treasury of the county, the treasurer of 9279  
which is custodian of the alcohol, drug addiction, and mental 9280  
health services funds to the credit of the board and shall be 9281  
available for use by the board for purposes stated by the donor or 9282  
grantor. 9283

(D) No board member or employee of a board of alcohol, drug 9284  
addiction, and mental health services shall be liable for injury 9285  
or damages caused by any action or inaction taken within the scope 9286  
of the board member's official duties or the employee's 9287  
employment, whether or not such action or inaction is expressly 9288  
authorized by this section, section 340.033, or any other section 9289  
of the Revised Code, unless such action or inaction constitutes 9290

willful or wanton misconduct. Chapter 2744. of the Revised Code 9291  
applies to any action or inaction by a board member or employee of 9292  
a board taken within the scope of the board member's official 9293  
duties or employee's employment. For the purposes of this 9294  
division, the conduct of a board member or employee shall not be 9295  
considered willful or wanton misconduct if the board member or 9296  
employee acted in good faith and in a manner that the board member 9297  
or employee reasonably believed was in or was not opposed to the 9298  
best interests of the board and, with respect to any criminal 9299  
action or proceeding, had no reasonable cause to believe the 9300  
conduct was unlawful. 9301

(E) The meetings held by any committee established by a board 9302  
of alcohol, drug addiction, and mental health services shall be 9303  
considered to be meetings of a public body subject to section 9304  
121.22 of the Revised Code. 9305

**Sec. 341.05.** (A) The sheriff shall assign sufficient staff to 9306  
ensure the safe and secure operation of the county jail, but staff 9307  
shall be assigned only to the extent such staff can be provided 9308  
with funds appropriated to the sheriff at the discretion of the 9309  
board of county commissioners. The staff may include any of the 9310  
following: 9311

(1) An administrator for the jail; 9312

(2) Jail officers, including civilian jail officers who are 9313  
not sheriff's deputies, to conduct security duties; 9314

(3) Other necessary employees to assist in the operation of 9315  
the county jail. 9316

(B) The sheriff shall employ a sufficient number of female 9317  
staff to be available to perform all reception and release 9318  
procedures for female prisoners. These female employees shall be 9319  
on duty for the duration of the confinement of the female 9320

prisoners. 9321

(C) The jail administrator and civilian jail officers 9322  
appointed by the sheriff shall have all the powers of police 9323  
officers on the jail grounds as are necessary for the proper 9324  
performance of the duties relating to their positions at the jail 9325  
and as are consistent with their level of training. 9326

(D) The sheriff may authorize civilian jail officers to wear 9327  
a standard uniform consistent with their prescribed authority, in 9328  
accordance with section 311.281 of the Revised Code. Civilian jail 9329  
officer uniforms shall be differentiated clearly from the uniforms 9330  
worn by sheriff's deputies. 9331

(E) The Except as provided in division (B) of section 341.25 9332  
of the Revised Code, the compensation of jail staff shall be 9333  
payable from the general fund of the county, upon the warrant of 9334  
the auditor, in accordance with standard county payroll 9335  
procedures. 9336

**Sec. 341.25.** (A) The sheriff may establish a commissary for 9337  
the jail. The commissary may be established either in-house or by 9338  
another arrangement. If a commissary is established, all persons 9339  
incarcerated in the jail shall receive commissary privileges. A 9340  
person's purchases from the commissary shall be deducted from the 9341  
person's account record in the jail's business office. The 9342  
commissary shall provide for the distribution to indigent persons 9343  
incarcerated in the jail necessary hygiene articles and writing 9344  
materials. 9345

(B) If a commissary is established, the sheriff shall 9346  
establish a commissary fund for the jail. The management of funds 9347  
in the commissary fund shall be strictly controlled in accordance 9348  
with procedures adopted by the auditor of state. Commissary fund 9349  
revenue over and above operating costs and reserve shall be 9350  
considered profits. All profits from the commissary fund shall be 9351

used to purchase supplies and equipment, and to provide life 9352  
skills training and education or treatment services, or both, for 9353  
the benefit of persons incarcerated in the jail, and to pay salary 9354  
and benefits for employees of the sheriff who work in or are 9355  
employed for the purpose of providing service to the commissary. 9356  
The sheriff shall adopt rules for the operation of any commissary 9357  
fund the sheriff establishes. 9358

**Sec. 504.03.** (A)(1) If a limited home rule government is 9359  
adopted pursuant to section 504.02 of the Revised Code, it shall 9360  
remain in effect for at least three years except as otherwise 9361  
provided in division (B) of this section. At the end of that 9362  
period, if the board of township trustees determines that that 9363  
government is not in the best interests of the township, it may 9364  
adopt a resolution causing the board of elections to submit to the 9365  
electors of the unincorporated area of the township the question 9366  
of whether the township should continue the limited home rule 9367  
government. The question shall be voted upon at the next general 9368  
election occurring at least seventy-five days after the 9369  
certification of the resolution to the board of elections. After 9370  
certification of the resolution, the board of elections shall 9371  
submit the question to the electors of the unincorporated area of 9372  
the township, and the ballot language shall be substantially as 9373  
follows: 9374

"Shall the township of ..... (name) continue the 9375  
limited home rule government under which it is operating? 9376  
..... For continuation of the limited home rule government 9377  
..... Against continuation of the limited home rule government" 9378

(2) At least forty-five days before the election on the 9379  
question of continuing the limited home rule government, the board 9380  
of township trustees shall have notice of the election published 9381  
in a newspaper of general circulation in the township for three 9382

consecutive weeks and have the notice posted in five conspicuous places in the unincorporated area of the township. 9383  
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(B) The electors of a township that has adopted a limited home rule government may propose at any time by initiative petition, in accordance with section 504.14 of the Revised Code, a resolution submitting to the electors in the unincorporated area of the township, in an election, the question set forth in division (A)(1) of this section. 9385  
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(C) If a majority of the votes cast under division (A) or (B) of this section on the proposition of continuing the limited home rule government is in the negative, that government is terminated effective on the first day of January immediately following the election, and a limited home rule government shall not be adopted in the unincorporated area of the township pursuant to section 504.02 of the Revised Code for at least three years after that date. 9391  
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(D) If a limited home rule government is terminated under this section, the board of township trustees immediately shall adopt a resolution repealing all resolutions adopted pursuant to this chapter that are not authorized by any other section of the Revised Code outside this chapter, effective on the first day of January immediately following the election described in division (A) or (B) of this section. However, no resolution adopted under this division shall affect or impair the obligations of the township under any security issued or contracts entered into by the township in connection with the financing of any water supply facility or sewer improvement under sections 504.18 to 504.20 of the Revised Code or the authority of the township to collect or enforce any assessments or other revenues constituting security for or source of payments of debt service charges of those securities. 9399  
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(E) Upon the termination of a limited home rule government 9414

under this section, if the township had converted its board of 9415  
township trustees to a five-member board ~~under section 504.21 of~~ 9416  
~~the Revised Code~~ before the effective date of this amendment, the 9417  
current board member who received the lowest number of votes of 9418  
the current board members who were elected at the most recent 9419  
election for township trustees, and the current board member who 9420  
received the lowest number of votes of the current board members 9421  
who were elected at the second most recent election for township 9422  
trustees, shall cease to be township trustees on the date that the 9423  
limited home rule government terminates. Their offices likewise 9424  
shall cease to exist at that time, and the board shall continue as 9425  
a three-member board as provided in section 505.01 of the Revised 9426  
Code. 9427

**Sec. 504.04.** (A) A township that adopts a limited home rule 9428  
government may do all of the following by resolution, provided 9429  
that any of these resolutions, other than a resolution to supply 9430  
water or sewer services in accordance with sections 504.18 to 9431  
504.20 of the Revised Code, may be enforced only by the imposition 9432  
of civil fines as authorized in this chapter: 9433

(1) Exercise all powers of local self-government within the 9434  
unincorporated area of the township, other than powers that are in 9435  
conflict with general laws, except that the township shall comply 9436  
with the requirements and prohibitions of this chapter, and shall 9437  
enact no taxes other than those authorized by general law, and 9438  
except that no resolution adopted pursuant to this chapter shall 9439  
encroach upon the powers, duties, and privileges of elected 9440  
township officers or change, alter, combine, eliminate, or 9441  
otherwise modify the form or structure of the township government 9442  
unless the change is required or permitted by this chapter; 9443

(2) Adopt and enforce within the unincorporated area of the 9444  
township local police, sanitary, and other similar regulations 9445



that are not in conflict with general laws or otherwise prohibited	9446
by division (B) of this section;	9447
(3) Supply water and sewer services to users within the	9448
unincorporated area of the township in accordance with sections	9449
504.18 to 504.20 of the Revised Code.	9450
(B) No resolution adopted pursuant to this chapter shall do	9451
any of the following:	9452
(1) Create a criminal offense or impose criminal penalties,	9453
except as authorized by division (A) of this section;	9454
(2) Impose civil fines other than as authorized by this	9455
chapter;	9456
(3) Establish or revise subdivision regulations, road	9457
construction standards, urban sediment rules, or storm water and	9458
drainage regulations;	9459
(4) Establish or revise building standards, building codes,	9460
and other standard codes except as provided in section 504.13 of	9461
the Revised Code;	9462
(5) Increase, decrease, or otherwise alter the powers or	9463
duties of a township under any other chapter of the Revised Code	9464
pertaining to agriculture or the conservation or development of	9465
natural resources;	9466
(6) Establish regulations affecting hunting, trapping,	9467
fishing, or the possession, use, or sale of firearms;	9468
(7) Establish or revise water or sewer regulations, except in	9469
accordance with sections 504.18 and 504.19 of the Revised Code.	9470
Nothing in this chapter shall be construed as affecting the	9471
powers of counties with regard to the subjects listed in divisions	9472
(B)(3) to (5) of this section.	9473
(C) Under a limited home rule government, all officers shall	9474
have the qualifications, and be nominated, elected, or appointed,	9475

as provided in Chapter 505. of the Revised Code, except that the 9476  
board of township trustees shall appoint a full-time or part-time 9477  
law director pursuant to section 504.15 of the Revised Code, and 9478  
except that ~~section 504.21 of the Revised Code also shall apply if~~ 9479  
a five-member board of township trustees ~~is~~ approved for the 9480  
township before the effective date of this amendment shall 9481  
continue to serve as the legislative authority with successive 9482  
members serving for four-year terms of office until a termination 9483  
of a limited home rule government under section 504.03 of the 9484  
Revised Code. 9485

(D) In case of conflict between resolutions enacted by a 9486  
board of township trustees and municipal ordinances or 9487  
resolutions, the ordinance or resolution enacted by the municipal 9488  
corporation prevails. In case of conflict between resolutions 9489  
enacted by a board of township trustees and any county resolution, 9490  
the resolution enacted by the board of township trustees prevails. 9491

**Sec. 507.09.** (A) Except as otherwise provided in division (D) 9492  
of this section, the township clerk shall be entitled to 9493  
compensation as follows: 9494

(1) In townships having a budget of fifty thousand dollars or 9495  
less, three thousand five hundred dollars; 9496

(2) In townships having a budget of more than fifty thousand 9497  
but not more than one hundred thousand dollars, five thousand five 9498  
hundred dollars; 9499

(3) In townships having a budget of more than one hundred 9500  
thousand but not more than two hundred fifty thousand dollars, 9501  
seven thousand seven hundred dollars; 9502

(4) In townships having a budget of more than two hundred 9503  
fifty thousand but not more than five hundred thousand dollars, 9504  
nine thousand nine hundred dollars; 9505

(5) In townships having a budget of more than five hundred thousand but not more than seven hundred fifty thousand dollars, eleven thousand dollars; 9506  
9507  
9508

(6) In townships having a budget of more than seven hundred fifty thousand but not more than one million five hundred thousand dollars, thirteen thousand two hundred dollars; 9509  
9510  
9511

(7) In townships having a budget of more than one million five hundred thousand but not more than three million five hundred thousand dollars, fifteen thousand four hundred dollars; 9512  
9513  
9514

(8) In townships having a budget of more than three million five hundred thousand dollars but not more than six million dollars, sixteen thousand five hundred dollars; 9515  
9516  
9517

(9) In townships having a budget of more than six million dollars, seventeen thousand six hundred dollars. 9518  
9519

(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. 9520  
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9522  
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(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. 9525  
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(D) Beginning in calendar year 1999, the township clerk shall be entitled to compensation as follows: 9531  
9532

(1) In calendar year 1999, the compensation specified in division (A) of this section increased by three per cent; 9533  
9534

(2) In calendar year 2000, the compensation determined under 9535

division (D)(1) of this section increased by three per cent;	9536
(3) In calendar year 2001, the compensation determined under division (D)(2) of this section increased by three per cent;	9537 9538
(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;	9539 9540 9541 9542 9543 9544 9545 9546
(5) <u>In calendar year 2003, the compensation determined under division (D)(4) of this section increased by three per cent or the percentage increase in the consumer price index as described in division (D)(7)(b) of this section, whichever percentage is lower;</u>	9547 9548 9549 9550
(6) <u>In calendar year 2004, except in townships having a budget of more than six million dollars, the compensation determined under division (D)(5) of this section for the calendar year 2003 increased by three per cent or the percentage increase in the consumer price index as described in division (D)(7)(b) of this section, whichever percentage is lower; in townships having a budget of more than six million but not more than ten million dollars, twenty-two thousand eighty-seven dollars; and in townships having a budget of more than ten million dollars, twenty-five thousand five hundred fifty-three dollars;</u>	9551 9552 9553 9554 9555 9556 9557 9558 9559 9560
(7) In calendar years <del>2003</del> <u>2005</u> through 2008, the compensation determined under division (D) of this section for the immediately preceding calendar year increased by the lesser of the following:	9561 9562 9563 9564
(a) Three per cent;	9565
(b) The percentage increase, if any, in the consumer price	9566

index over the twelve-month period that ends on the thirtieth day 9567  
of September of the immediately preceding calendar year, rounded 9568  
to the nearest one-tenth of one per cent; 9569

~~(6)~~(8) In calendar year 2009 and thereafter, the amount 9570  
determined under division (D) of this section for calendar year 9571  
2008. 9572

As used in this division, "consumer price index" has the same 9573  
meaning as in section 325.18 of the Revised Code. 9574

**Sec. 511.12.** The board of township trustees may prepare plans 9575  
and specifications and make contracts for the construction and 9576  
erection of a memorial building, monument, statue, or memorial, 9577  
for the purposes specified and within the amount authorized by 9578  
section 511.08 of the Revised Code. If the total estimated cost of 9579  
the construction and erection exceeds ~~fifteen~~ twenty-five thousand 9580  
dollars, the contract shall be let by competitive bidding. If the 9581  
estimated cost is ~~fifteen~~ twenty-five thousand dollars or less, 9582  
competitive bidding may be required at the board's discretion. In 9583  
making contracts under this section, the board shall be governed 9584  
as follows: 9585

(A) Contracts for construction when competitive bidding is 9586  
required shall be based upon detailed plans, specifications, forms 9587  
of bids, and estimates of cost, adopted by the board. 9588

(B) Contracts shall be made in writing upon concurrence of a 9589  
majority of the members of the board, and shall be signed by at 9590  
least two of ~~such~~ the members and by the contractor. If 9591  
competitive bidding is required, no contract shall be made or 9592  
signed until an advertisement has been placed in two newspapers, 9593  
published or of general circulation in the township, for a period 9594  
of thirty days. 9595

(C) No contract shall be let by competitive bidding except to 9596

the lowest and best bidder, who shall meet the requirements of 9597  
section 153.54 of the Revised Code. 9598

(D) When, in the opinion of the board, it becomes necessary 9599  
in the prosecution of such work to make alterations or 9600  
modifications in any contract, ~~such~~ the alterations or 9601  
modifications shall be made only by order of the board, and ~~such~~ 9602  
that order shall be of no effect until the price to be paid for 9603  
the work or materials under ~~such~~ the altered or modified contract 9604  
has been agreed upon in writing and signed by the contractor and 9605  
at least two members of the board. 9606

(E) No contract or alteration or modification ~~thereof~~ of it 9607  
shall be valid unless made in the manner provided in this section. 9608

**Sec. 511.181.** If the board of park commissioners of a 9609  
township park district created before 1955 is appointed by the 9610  
board of township trustees, the board of township trustees may 9611  
adopt a resolution to convert the parks owned and operated by the 9612  
park district into parks owned and operated by the township if the 9613  
township has a population of less than thirty-five thousand and a 9614  
geographical area of less than fifteen square miles. Upon the 9615  
adoption of that resolution, the township park district shall 9616  
cease to exist, all real and personal property owned by the park 9617  
district shall be transferred to the township, and the township 9618  
shall assume liability with respect to all contracts and debts of 9619  
the park district. All employees of the township park district 9620  
whose parks are so converted into township parks shall become 9621  
township employees, and the board of township trustees may retain 9622  
the former park commissioners, on the terms that the trustees 9623  
consider appropriate, to operate the property formerly owned by 9624  
the township park district. 9625

The township shall continue to collect any taxes levied 9626  
within the former township park district, and the taxes shall be 9627

deposited into the township treasury as funds to be used for the 9628  
park purposes for which they were levied. 9629

Within fifteen days after the adoption of a township park 9630  
district conversion resolution under this section, the clerk of 9631  
the board of township trustees shall certify a copy of that 9632  
resolution to the county auditor. 9633

**Sec. 515.01.** The board of township trustees may provide 9634  
artificial lights for any road, highway, public place, or building 9635  
under its supervision or control, or for any territory within the 9636  
township and outside the boundaries of any municipal corporation, 9637  
when the board determines that the public safety or welfare 9638  
requires that ~~such~~ the road, highway, public place, building, or 9639  
territory shall be lighted. ~~Such~~ The lighting may be procured 9640  
either by the township installing a lighting system or by 9641  
contracting with any person or corporation to furnish lights. 9642

If lights are furnished under contract, ~~such~~ the contract may 9643  
provide that the equipment employed may be owned by the township 9644  
or by the person or corporation supplying it. 9645

If the board determines to procure ~~such~~ lighting by contract 9646  
and the total estimated cost of the contract exceeds ~~fifteen~~ 9647  
twenty-five thousand dollars, the board shall prepare plans and 9648  
specifications for the lighting equipment and shall, for two 9649  
weeks, advertise for bids for furnishing ~~such~~ the lighting 9650  
equipment, either by posting ~~such~~ the advertisement in three 9651  
conspicuous places in the township or by publication ~~thereof~~ of 9652  
the advertisement once a week, for two consecutive weeks, in a 9653  
newspaper of general circulation in the township. Any such 9654  
contract for lighting shall be made with the lowest and best 9655  
bidder. 9656

No lighting contract awarded by the board shall be made to 9657  
cover a period of more than ten years. The cost of installing and 9658

operating any lighting system or any light furnished under 9659  
contract shall be paid from the general fund of the township 9660  
treasury. 9661

**Sec. 515.07.** If the total estimated cost of any lighting 9662  
improvement provided for in section 515.06 of the Revised Code is 9663  
~~fifteen~~ twenty-five thousand dollars or less, the contract may be 9664  
let without competitive bidding. When competitive bidding is 9665  
required, the board of township trustees shall post, in three of 9666  
the most conspicuous public places in the district, a notice 9667  
specifying the number, candle power, and location of lights, and 9668  
the kind of supports ~~therefore~~ for the lights as provided by 9669  
section 515.06 of the Revised Code, as well as the time, which 9670  
shall not be less than thirty days from the posting of the 9671  
notices, and the place the board will receive bids to furnish ~~such~~ 9672  
the lights. The board shall accept the lowest and best bid, if the 9673  
successful bidder meets the requirements of section 153.54 of the 9674  
Revised Code. The board may reject all bids. 9675

**Sec. 715.013.** (A) Except as otherwise expressly authorized by 9676  
the Revised Code, no municipal corporation shall levy a tax that 9677  
is the same as or similar to a tax levied under Chapter 322., 9678  
3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307., 4309., 9679  
5707., 5725., 5727., 5728., 5729., 5731., 5735., 5737., 5739., 9680  
5741., 5743., or 5749. of the Revised Code. 9681

(B) This section does not prohibit a municipal corporation 9682  
from levying a tax on ~~amounts~~ any of the following: 9683

(1) Amounts received for admission to any place ~~or, on and~~ 9684  
~~after January 1, 2002, on the;~~ 9685

(2) The income of an electric company or combined company, as 9686  
defined in section 5727.01 of the Revised Code; 9687

(3) On and after January 1, 2004, the income of a telephone 9688



<u>company, as defined in section 5727.01 of the Revised Code.</u>	9689
<b>Sec. 718.01.</b> (A) As used in this chapter:	9690
(1) <u>"Adjusted federal taxable income" means federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:</u>	9691
	9692
	9693
(a) <u>Deduct intangible income to the extent included in federal taxable income;</u>	9694
	9695
(b) <u>Add expenses incurred in the production of intangible income;</u>	9696
	9697
(c) <u>Add the amounts described in section 5745.042 of the Revised Code, except that "taxpayer" as used in section 5745.042 of the Revised Code has the same meaning as in this section; and</u>	9698
	9699
	9700
(d) <u>If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute "adjusted federal taxable income" as if the taxpayer were a C corporation, but with respect to each owner-employee of the taxpayer, amounts paid or accrued to a qualified self-employed retirement plan and amounts paid or accrued to or for health insurance or life insurance shall not be allowed as a deduction.</u>	9701
	9702
	9703
	9704
	9705
	9706
	9707
<u>Nothing in division (A)(1) of section 718.01 of the Revised Code shall be construed as allowing the taxpayer to deduct any amount more than once.</u>	9708
	9709
	9710
(2) <u>"Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.</u>	9711
	9712
<del>(2)</del> (3) <u>"Schedule C" means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.</u>	9713
	9714
<del>(3)</del> (4) <u>"Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.</u>	9715
	9716
<del>(4)</del> (5) <u>"Intangible income" means income of any of the</u>	9717

following types: income yield, interest, dividends, or other 9718  
income arising from the ownership, sale, exchange, or other 9719  
disposition of intangible property including, but not limited to, 9720  
investments, deposits, money, or credits as those terms are 9721  
defined in Chapter 5701. of the Revised Code. 9722

~~(5)~~(6) "S corporation" means a corporation that has made an 9723  
election under subchapter S of Chapter 1 of Subtitle A of the 9724  
Internal Revenue Code for its taxable year. 9725

(7) For taxable years beginning on or after January 1, 2004, 9726  
"net profit" means adjusted federal taxable income calculated on 9727  
the basis of the Internal Revenue Code. 9728

(8) "Taxpayer" means a person subject to a tax on income 9729  
levied by a municipal corporation. 9730

(9) "Taxable year" means the corresponding tax reporting 9731  
period as prescribed for the taxpayer under the Internal Revenue 9732  
Code. 9733

(10) "Tax administrator" means the individual charged with 9734  
direct responsibility for administration of a tax on income levied 9735  
by a municipal corporation. 9736

(B) No municipal corporation ~~with respect to that income that~~ 9737  
~~it may tax~~ shall tax ~~such~~ income at other than a uniform rate. 9738

(C) No municipal corporation shall levy a tax on income at a 9739  
rate in excess of one per cent without having obtained the 9740  
approval of the excess by a majority of the electors of the 9741  
municipality voting on the question at a general, primary, or 9742  
special election. The legislative authority of the municipal 9743  
corporation shall file with the board of elections at least 9744  
seventy-five days before the day of the election a copy of the 9745  
ordinance together with a resolution specifying the date the 9746  
election is to be held and directing the board of elections to 9747  
conduct the election. The ballot shall be in the following form: 9748

"Shall the Ordinance providing for a ... per cent levy on income 9749  
for (Brief description of the purpose of the proposed levy) be 9750  
passed? 9751

FOR THE INCOME TAX 9752

AGAINST THE INCOME TAX" 9753

In the event of an affirmative vote, the proceeds of the levy 9754  
may be used only for the specified purpose. 9755

(D)(1) Except as ~~otherwise~~ provided in division ~~(D)(2) or~~ 9756  
~~(F)(9)(E)~~ of this section, no municipal corporation shall exempt 9757  
from a tax on income, compensation for personal services of 9758  
individuals over eighteen years of age or the net profit from a 9759  
business or profession. 9760

~~(2) The legislative authority of a municipal corporation may,~~ 9761  
~~by ordinance or resolution, exempt from a tax on income any~~ 9762  
~~compensation arising from the grant, sale, exchange, or other~~ 9763  
~~disposition of a stock option; the exercise of a stock option; or~~ 9764  
~~the sale, exchange, or other disposition of stock purchased under~~ 9765  
~~a stock option. (a) For taxable years beginning on or after~~ 9766  
January 1, 2004, no municipal corporation shall tax the net profit 9767  
from a business or profession using any base other than the 9768  
taxpayer's adjusted federal taxable income. 9769

(b) Division (D)(2)(a) of this section does not apply to any 9770  
taxpayer required to file a return under section 5745.03 of the 9771  
Revised Code or to the net profit from a sole proprietorship. 9772

~~(E) Nothing in this section shall prevent~~ Except as provided 9773  
in division (D)(2) of this section, a municipal corporation ~~from~~ 9774  
~~permitting~~ may permit lawful deductions as prescribed by 9775  
ordinance. The legislative authority of a municipal corporation 9776  
may, by ordinance or resolution, exempt from a tax on income any 9777  
compensation arising from the grant, sale, exchange, or other 9778  
disposition of a stock option, the exercise of a stock option, or 9779

the sale, exchange, or other disposition of stock purchased under 9780  
a stock option. If ~~a taxpayer's~~ an individual's taxable income 9781  
includes income against which the taxpayer has taken a deduction 9782  
for federal income tax purposes as reportable on the taxpayer's 9783  
form 2106, and against which a like deduction has not been allowed 9784  
by the municipal corporation, the municipal corporation shall 9785  
deduct from the taxpayer's taxable income an amount equal to the 9786  
deduction shown on such form allowable against such income, to the 9787  
extent not otherwise so allowed as a deduction by the municipal 9788  
corporation. ~~It~~ 9789

In the case of a taxpayer who has a net profit from a 9790  
business or profession that is operated as a sole proprietorship, 9791  
no municipal corporation may tax or use as the base for 9792  
determining the amount of the net profit that shall be considered 9793  
as having a taxable situs in the municipal corporation, ~~a greater~~ 9794  
~~amount than the net profit reported by the taxpayer on schedule C~~ 9795  
~~filed in reference to the year in question as taxable income from~~ 9796  
~~such sole proprietorship, except as otherwise specifically~~ 9797  
~~provided by ordinance or regulation~~ an amount other than the net 9798  
profit required to be reported by the taxpayer on schedule C as 9799  
taxable income from such sole proprietorship for the taxable year, 9800  
but such amount shall be increased in accordance with the 9801  
principles and concepts described in section 5745.042 of the 9802  
Revised Code as if the taxpayer were a C corporation. 9803

(F) A municipal corporation shall not tax any of the 9804  
following: 9805

(1) The military pay or allowances of members of the armed 9806  
forces of the United States and of members of their reserve 9807  
components, including the Ohio national guard; 9808

(2) The income of religious, fraternal, charitable, 9809  
scientific, literary, or educational institutions to the extent 9810  
that such income is derived from tax-exempt real estate, 9811

tax-exempt tangible or intangible property, or tax-exempt 9812  
activities; 9813

(3) Except as otherwise provided in division (G) of this 9814  
section, intangible income; 9815

(4) Compensation paid under section 3501.28 or 3501.36 of the 9816  
Revised Code to a person serving as a precinct election official, 9817  
to the extent that such compensation does not exceed one thousand 9818  
dollars annually. Such compensation in excess of one thousand 9819  
dollars may be subjected to taxation by a municipal corporation. A 9820  
municipal corporation shall not require the payer of such 9821  
compensation to withhold any tax from that compensation. 9822

(5) Compensation paid to an employee of a transit authority, 9823  
regional transit authority, or regional transit commission created 9824  
under Chapter 306. of the Revised Code for operating a transit bus 9825  
or other motor vehicle for the authority or commission in or 9826  
through the municipal corporation, unless the bus or vehicle is 9827  
operated on a regularly scheduled route, the operator is subject 9828  
to such a tax by reason of residence or domicile in the municipal 9829  
corporation, or the headquarters of the authority or commission is 9830  
located within the municipal corporation; 9831

(6) The income of a public utility, when that public utility 9832  
is subject to the tax levied under section 5727.24 or 5727.30 of 9833  
the Revised Code, except ~~starting January 1, 2002, the income of~~ 9834  
~~an electric company or combined company, as defined in section~~ 9835  
~~5727.01 of the Revised Code, may be taxed by~~ a municipal 9836  
corporation may tax the following, subject to Chapter 5745. of the 9837  
Revised Code; 9838

(a) Beginning January 1, 2002, the income of an electric 9839  
company or combined company; 9840

(b) Beginning January 1, 2004, the income of a telephone 9841  
company. 9842

As used in division (F)(6) of this section, "combined company," "electric company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.

(7) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code;

(8) On and after January 1, 2001, compensation paid to a nonresident individual to the extent prohibited under section 718.011 of the Revised Code;

(9) Except as provided in division (H) of this section, an S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code, to the extent such distributive share would not be allocated or apportioned to this state under division (B)(1) and (2) of section 5733.05 of the Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733. of the Revised Code.

(G) Any municipal corporation that taxes any type of intangible income on March 29, 1988, pursuant to Section 3 of Amended Substitute Senate Bill No. 238 of the 116th general assembly, may continue to tax that type of income after 1988 if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 vote in favor thereof at an election held on November 8, 1988.

(H) Any municipal corporation that, on December 6, 2002, taxes an S corporation shareholder's distributive share of net profits of the S corporation to any greater extent than that permitted under division (F)(9) of this section may continue after

2002 to tax such distributive shares to such greater extent only 9874  
if a majority of the electors of the municipal corporation voting 9875  
on the question of such continuation vote in favor thereof at an 9876  
election held on November 4, 2003. If a majority of electors vote 9877  
in favor of that question, then, for purposes of section 718.14 of 9878  
the Revised Code, "pass-through entity" includes S corporations, 9879  
"income from a pass-through entity" includes distributive shares 9880  
from an S corporation, and "owner" includes a shareholder of an S 9881  
corporation, notwithstanding that section to the contrary. 9882

(I) Nothing in this section or section 718.02 of the Revised 9883  
Code shall authorize the levy of any tax on income that a 9884  
municipal corporation is not authorized to levy under existing 9885  
laws or shall require a municipal corporation to allow a deduction 9886  
from taxable income for losses incurred from a sole proprietorship 9887  
or partnership. 9888

**Sec. 718.02.** This section does not apply to electric 9889  
~~companies or combined companies, or to electric light companies~~ 9890  
~~for which an election made under section 5745.031 taxpayers that~~ 9891  
~~are subject to and required to file reports under Chapter 5745. of~~ 9892  
~~the Revised Code is in effect.~~ 9893

(A) ~~In the taxation of income that is subject to municipal~~ 9894  
~~income taxes, if the books and records of a taxpayer conducting a~~ 9895  
~~business or profession both within and without the boundaries of a~~ 9896  
~~municipal corporation disclose with reasonable accuracy what~~ 9897  
~~portion of its net profit is attributable to that part of the~~ 9898  
~~business or profession conducted within the boundaries of the~~ 9899  
~~municipal corporation, then only such portion shall be considered~~ 9900  
~~as having a taxable situs in such municipal corporation for~~ 9901  
~~purposes of municipal income taxation. In the absence of such~~ 9902  
~~records, net~~ Net profit from a business or profession conducted 9903  
both within and without the boundaries of a municipal corporation 9904

shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) The average ~~net book value~~ original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average ~~net book value~~ original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under section 718.011 of the Revised Code;

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

If the foregoing ~~allocation~~ apportionment formula does not produce an equitable result, another basis may be substituted, under uniform regulations, so as to produce an equitable result. If, for any taxable year, the application of the foregoing



apportionment formula produces an amount less than zero, the 9936  
taxpayer shall not be entitled to a refund with respect to that 9937  
taxable year of any amounts other than amounts the taxpayer has 9938  
paid in estimated taxes for the taxable year and any overpayment 9939  
from a previous taxable year credited towards the taxable year for 9940  
which the foregoing apportionment formula produces an amount less 9941  
than zero. 9942

(B) As used in division (A) of this section, "sales made in a 9943  
municipal corporation" mean: 9944

(1) All sales of tangible personal property delivered within 9945  
such municipal corporation regardless of where title passes if 9946  
shipped or delivered from a stock of goods within such municipal 9947  
corporation; 9948

(2) All sales of tangible personal property delivered within 9949  
such municipal corporation regardless of where title passes even 9950  
though transported from a point outside such municipal corporation 9951  
if the taxpayer is regularly engaged through its own employees in 9952  
the solicitation or promotion of sales within such municipal 9953  
corporation and the sales result from such solicitation or 9954  
promotion; 9955

(3) All sales of tangible personal property shipped from a 9956  
place within such municipal corporation to purchasers outside such 9957  
municipal corporation regardless of where title passes if the 9958  
taxpayer is not, through its own employees, regularly engaged in 9959  
the solicitation or promotion of sales at the place where delivery 9960  
is made. 9961

**Sec. 718.021.** (A) As used in this section: 9962

(1) "Apportioned net income" means the amount derived from 9963  
the application of the apportionment formula described in section 9964  
718.02 of the Revised Code. 9965

(2) "Loss-generating taxable year" means a taxable year in which the taxpayer has negative apportioned net income. 9966  
9967

(3) "Negative apportioned net income" means apportioned net income that is less than zero, except that if, for any taxable year, a taxpayer was not subject to the income tax imposed by a municipal corporation or was exempt from that tax, then the taxpayer's negative apportioned net income with respect to that municipal corporation is zero for that taxable year. 9968  
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(4) "Positive apportioned net income" means apportioned net income greater than zero. 9974  
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(B)(1) If a taxpayer has negative apportioned net income for a taxable year beginning on or after January 1, 2004, with respect to a municipal income tax, then for each of the next five ensuing taxable years, the taxpayer may reduce any positive apportioned net income with respect to the municipal corporation in which the negative apportioned net income was generated by the lesser of: 9976  
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(a) The positive apportioned net income for that ensuing taxable year; or 9982  
9983

(b) The absolute value of the negative apportioned net income attributable to the loss-generating taxable year reduced by any amount the taxpayer was allowed to deduct under this section in any of the previous taxable years. 9984  
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(2) If, during a period of five consecutive taxable years, a taxpayer has negative apportioned net income in more than one taxable year, the negative apportioned net income generated in the earliest of those taxable years shall be the first negative apportioned net income deducted under this section. 9988  
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(C) Nothing in this section allows any negative apportioned net income for a taxable year to be deducted more than once in any subsequent taxable year. 9993  
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(D) Nothing in this section allows any negative apportioned net income for a taxable year to be deducted in any subsequent taxable year beginning more than five years after the beginning of the loss-generating taxable year. 9996  
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9999

(E) Nothing in this section denies a taxpayer any net operating loss deductions for any losses arising in taxable years beginning before 2004 if such deductions are permitted by a municipal corporation's ordinance. 10000  
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**Sec. 718.03.** (A) As used in this section: 10004

(1) "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any item included in the taxable income of the individual. 10005  
10006  
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(2) "Qualifying wages" means wages, as defined in section 3121 of the Internal Revenue Code, adjusted as follows: 10009  
10010

(a) Deduct any amount included in wages to the extent the amount constitutes compensation attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code and is not included in any person's federal gross income. 10011  
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(b) Add any amount not included in wages to the extent the amount constitutes compensation attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code if the amount is included in any person's federal gross income, but only to the extent the municipal corporation did not impose its tax on that amount of nonqualified deferred compensation at the time the compensation was deferred. 10016  
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(c) Add any amount not included in wages to the extent the amount has been directly or indirectly paid to or for the benefit 10024  
10025

of any employee, payee, or former employee and is excluded from 10026  
the employee's, payee's, or former employee's federal gross income 10027  
under section 125 of the Internal Revenue Code. 10028

(B) For taxable years beginning after 2003, no municipal 10029  
corporation shall require any employer or any agent of any 10030  
employer or any other payer, to withhold tax from any compensation 10031  
greater than qualifying wages directly or indirectly paid to or 10032  
for the benefit of any employee or payee or former employee. 10033  
Nothing in this section prohibits an employer from withholding 10034  
amounts on a basis greater than qualifying wages. 10035

(C)(1) The failure of an employer to withhold tax as required 10036  
by a municipal corporation does not relieve an employee from 10037  
liability for the tax. 10038

(2) The failure of an employer to remit to the municipal 10039  
corporation the tax withheld relieves the employee from liability 10040  
for that tax unless the employee colluded with the employer to 10041  
fail to remit the tax withheld. 10042

(D) The exemption of compensation from withholding under this 10043  
section does not exempt that compensation from taxation as 10044  
otherwise provided by law. 10045

**Sec. 718.031.** The tax administrator may require each 10046  
employer, on or before the last day of February of each year, to 10047  
notify the administrator of the name, address, and social security 10048  
number of each employee for whom the employer deferred 10049  
compensation, other than qualified deferred compensation, during 10050  
the previous calendar year. The notification shall also include 10051  
the amount so deferred for each employee. 10052

**Sec. 718.05.** (A) As used in this section: 10053

(1) "Generic form" means an electronic or paper form designed 10054  
for reporting estimated municipal income taxes and annual 10055

municipal income tax liability or for filing a refund claim that 10056  
is not prescribed by a particular municipal corporation for the 10057  
reporting of that municipal corporation's tax on income. 10058

(2) "Return preparer" means any person other than a taxpayer 10059  
that is authorized by a taxpayer to complete or file an income tax 10060  
return, report, or other document for or on behalf of the 10061  
taxpayer. 10062

(B) A municipal corporation shall not require a taxpayer to 10063  
file an annual income tax return or report prior to the filing 10064  
date for the corresponding tax reporting period as prescribed for 10065  
such a taxpayer under the Internal Revenue Code. For taxable years 10066  
beginning after 2003, except as otherwise provided in section 10067  
718.051 of the Revised Code and division (D) of this section, a 10068  
municipal corporation shall not require a taxpayer to file an 10069  
annual income tax return or report on any date other than the 10070  
fifteenth day of the fourth month following the end of the 10071  
taxpayer's taxable year. 10072

(C) On and after January 1, 2001, any municipal corporation 10073  
that requires taxpayers to file income tax returns, reports, or 10074  
other documents shall accept for filing a generic form of such a 10075  
return, report, or document if the generic form, once completed 10076  
and filed, contains all of the information required to be 10077  
submitted with the municipal corporation's prescribed returns, 10078  
reports, or documents, and if the taxpayer or return preparer 10079  
filing the generic form otherwise complies with rules or 10080  
ordinances of the municipal corporation governing the filing of 10081  
returns, reports, or documents. 10082

(D) ~~Beginning~~ Except as otherwise provided in section 718.051 10083  
of the Revised Code, beginning January 1, 2001, any taxpayer that 10084  
has requested an extension for filing a federal income tax return 10085  
may request an extension for the filing of a municipal income tax 10086  
return. The taxpayer shall make the request by filing a copy of 10087

the taxpayer's request for a federal filing extension with the 10088  
individual or office charged with the administration of the 10089  
municipal income tax. The request for extension shall be filed not 10090  
later than the last day for filing the municipal income tax return 10091  
as prescribed by ordinance or rule of the municipal corporation. A 10092  
municipal corporation shall grant such a request for extension 10093  
filed before January 1, 2004, for a period not less than the 10094  
period of the federal extension request. For taxable years 10095  
beginning after 2003, the extended due date of the municipal 10096  
income tax return shall be the last day of the month to which the 10097  
due date of the federal income tax return has been extended. A 10098  
municipal corporation may deny a taxpayer's request for extension 10099  
only if the taxpayer fails to timely file the request, fails to 10100  
file a copy of the request for the federal extension, owes the 10101  
municipal corporation any delinquent income tax or any penalty, 10102  
interest, assessment, or other charge for the late payment or 10103  
nonpayment of income tax, or has failed to file any required 10104  
income tax return, report, or other related document for a prior 10105  
tax period. The granting of an extension for filing a municipal 10106  
corporation income tax return does not extend the last date for 10107  
paying the tax without penalty unless the municipal corporation 10108  
grants an extension of that date. 10109

Sec. 718.051. (A) As used in this section, "Ohio business 10110  
gateway" means the online computer network system, initially 10111  
created by the department of administrative services under section 10112  
125.30 of the Revised Code, that allows private businesses to 10113  
electronically file business reply forms with state agencies. 10114

(B) Notwithstanding section 718.05 of the Revised Code, on 10115  
and after January 1, 2005, any taxpayer that is subject to any 10116  
municipal corporation's tax on the net profit from a business or 10117  
profession and has received an extension to file the federal 10118  
income tax return shall not be required to notify the municipal 10119

corporation of the federal extension and shall not be required to 10120  
file any municipal income tax return until the last day of the 10121  
month to which the due date for filing the federal return has been 10122  
extended, provided that, on or before the date for filing the 10123  
municipal income tax return, the person notifies the tax 10124  
commissioner of the federal extension through the Ohio business 10125  
gateway or any successor electronic filing and payment system. 10126

(C) For taxable years beginning on or after January 1, 2005, 10127  
a taxpayer subject to any municipal corporation's tax on the net 10128  
profit from a business or profession may file any municipal income 10129  
tax return or estimated municipal income return, and may make 10130  
payment of amounts shown to be due on such returns, by using the 10131  
Ohio business gateway or any successor electronic filing and 10132  
payment system. 10133

(D)(1) As used in this division, "qualifying wages" has the 10134  
same meaning as in section 718.03 of the Revised Code. 10135

(2) Any employer may report the amount of municipal income 10136  
tax withheld from qualifying wages paid on or after January 1, 10137  
2007, and may make remittance of such amounts, by using the Ohio 10138  
business gateway or any successor electronic filing and payment 10139  
system. 10140

(E) Nothing in this section affects the due dates for filing 10141  
income tax returns or employer withholding tax returns or for 10142  
paying any amounts shown to be due on such returns. 10143

(F) No municipal corporation shall be required to pay any fee 10144  
or charge for the operation or maintenance of the Ohio business 10145  
gateway. 10146

(G) The use of the Ohio business gateway by municipal 10147  
corporations, taxpayers, or other persons pursuant to this section 10148  
does not affect the legal rights of municipalities or taxpayers as 10149  
otherwise permitted by law. This state shall not be a party to the 10150

administration of municipal income taxes or to an appeal of a 10151  
municipal income tax matter, except as otherwise specifically 10152  
provided by law. 10153

~~Sec. 718.11. As used in this section, "tax administrator"~~ 10154  
~~means the individual charged with direct responsibility for~~ 10155  
~~administration of a tax levied by a municipal corporation on~~ 10156  
~~income.~~ 10157

~~Not later than one hundred eighty days after the effective~~ 10158  
~~date of this section, the~~ The legislative authority of each 10159  
municipal corporation that imposes a tax on income ~~on that~~ 10160  
~~effective date shall establish by ordinance~~ maintain a board to 10161  
hear appeals as provided in this section. The legislative 10162  
authority of any municipal corporation that does not impose a tax 10163  
on income on the effective date of this ~~section~~ amendment, but 10164  
that imposes such a tax after that date, shall establish such a 10165  
board by ordinance not later than one hundred eighty days after 10166  
the tax takes effect. 10167

Whenever a tax administrator issues a decision regarding a 10168  
municipal income tax obligation that is subject to appeal as 10169  
provided in this section or in an ordinance or regulation of the 10170  
municipal corporation, the tax administrator shall notify the 10171  
taxpayer in writing at the same time of the taxpayer's right to 10172  
appeal the decision and of the manner in which the taxpayer may 10173  
appeal the decision. 10174

Any person who is aggrieved by a decision by the tax 10175  
administrator and who has filed with the municipal corporation the 10176  
required returns or other documents pertaining to the municipal 10177  
income tax obligation at issue in the decision may appeal the 10178  
decision to the board created pursuant to this section by filing a 10179  
request with the board. The request shall be in writing, shall 10180  
state why the decision should be deemed incorrect or unlawful, and 10181



shall be filed within thirty days after the tax administrator 10182  
issues the decision complained of. 10183

The board shall schedule a hearing within forty-five days 10184  
after receiving the request, unless the taxpayer waives a hearing. 10185  
If the taxpayer does not waive the hearing, the taxpayer may 10186  
appear before the board and may be represented by an attorney at 10187  
law, certified public accountant, or other representative. 10188

The board may affirm, reverse, or modify the tax 10189  
administrator's decision or any part of that decision. The board 10190  
shall issue a final decision on the appeal within ninety days 10191  
after the board's final hearing on the appeal, and send ~~notice a~~ 10192  
copy of its final decision by ordinary mail to the petitioner 10193  
within fifteen days after issuing the decision. The taxpayer may 10194  
appeal the board's decision to the board of tax appeals as 10195  
provided in section 5717.011 of the Revised Code. 10196

Each board of appeal created pursuant to this section shall 10197  
adopt rules governing its procedures and shall keep a record of 10198  
its transactions. Such records are not public records available 10199  
for inspection under section 149.43 of the Revised Code. Hearings 10200  
requested by a taxpayer before a board of appeal created pursuant 10201  
to this section are not meetings of a public body subject to 10202  
section 121.22 of the Revised Code. 10203

Sec. 718.121. (A) If tax or withholding is erroneously paid 10204  
to a municipal corporation on income or wages, and if another 10205  
municipal corporation imposes a tax on that income or wages after 10206  
the time period allowed for a refund of the tax or withholding 10207  
paid to the first municipal corporation, the second municipal 10208  
corporation shall allow a nonrefundable credit, against the tax or 10209  
withholding the second municipality claims is due, equal to the 10210  
tax or withholding paid to the first municipal corporation. 10211

(B) If tax or withholding was paid to a municipal corporation 10212

on nonqualified deferred compensation for a previous taxable year 10213  
in which the compensation was deferred, and if another municipal 10214  
corporation imposes tax for the current taxable year on the 10215  
compensation when it is paid in that current taxable year, then 10216  
the second municipal corporation shall allow a credit for the tax 10217  
paid to the first municipal corporation to the same extent that 10218  
the second municipal corporation would allow a credit if the tax 10219  
had been paid to the first municipal corporation in the current 10220  
taxable year. 10221

**Sec. 718.15.** A municipal corporation, by ordinance, may grant 10222  
a refundable or nonrefundable credit against its tax on income to 10223  
a taxpayer that also receives a tax credit under section 122.17 of 10224  
the Revised Code. If a credit is granted under this section, it 10225  
shall be measured as a percentage of the new income tax revenue 10226  
the municipal corporation derives from new employees of the 10227  
taxpayer and shall be for a term not exceeding ~~ten~~ fifteen years. 10228  
Before the municipal corporation passes an ordinance granting a 10229  
credit, the municipal corporation and the taxpayer shall enter 10230  
into an agreement specifying all the conditions of the credit. 10231  
10232

**Sec. 718.151.** A municipal corporation, by ordinance, may 10233  
grant a nonrefundable credit against its tax on income to a 10234  
taxpayer that also receives a tax credit under section 122.171 of 10235  
the Revised Code. If a credit is granted under this section, it 10236  
shall be measured as a percentage of the income tax revenue the 10237  
municipal corporation derives from the retained employees of the 10238  
taxpayer, and shall be for a term not exceeding ~~ten~~ fifteen years. 10239  
Before a municipal corporation passes an ordinance allowing such a 10240  
credit, the municipal corporation and the taxpayer shall enter 10241  
into an agreement specifying all the conditions of the credit. 10242

**Sec. 731.14.** All contracts made by the legislative authority 10243  
of a village shall be executed in the name of the village and 10244  
signed on its behalf by the mayor and clerk. Except where the 10245  
contract is for equipment, services, materials, or supplies to be 10246  
purchased under division (D) of section 713.23 or section 125.04 10247  
or 5513.01 of the Revised Code or available from a qualified 10248  
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 10249  
Revised Code, when any expenditure, other than the compensation of 10250  
persons employed ~~therein~~ in the village, exceeds ~~fifteen~~ 10251  
twenty-five thousand dollars, such contracts shall be in writing 10252  
and made with the lowest and best bidder after advertising for not 10253  
less than two nor more than four consecutive weeks in a newspaper 10254  
of general circulation within the village. The bids shall be 10255  
opened and shall be publicly read by the clerk of ~~such~~ the village 10256  
or a person designated by the clerk at the time, date, and place 10257  
specified in the advertisement to bidders or specifications. The 10258  
time, date, and place of bid openings may be extended to a later 10259  
date by the legislative authority of the village, provided that 10260  
written or oral notice of the change shall be given to all persons 10261  
who have received or requested specifications no later than 10262  
ninety-six hours prior to the original time and date fixed for the 10263  
opening. This section does not apply to those villages that have 10264  
provided for the appointment of a village administrator under 10265  
section 735.271 of the Revised Code. 10266

**Sec. 731.141.** In those villages that have established the 10267  
position of village administrator, as provided by section 735.271 10268  
of the Revised Code, the village administrator shall make 10269  
contracts, purchase supplies and materials, and provide labor for 10270  
any work under the administrator's supervision involving not more 10271  
than ~~fifteen~~ twenty-five thousand dollars. When an expenditure, 10272  
other than the compensation of persons employed by the village, 10273

exceeds ~~fifteen~~ twenty-five thousand dollars, ~~such the~~ expenditure 10274  
shall first be authorized and directed by ordinance of the 10275  
legislative authority of the village. When so authorized and 10276  
directed, except where the contract is for equipment, services, 10277  
materials, or supplies to be purchased under division (D) of 10278  
section 713.23 or section 125.04 or 5513.01 of the Revised Code or 10279  
available from a qualified nonprofit agency pursuant to sections 10280  
4115.31 to 4115.35 of the Revised Code, the village administrator 10281  
shall make a written contract with the lowest and best bidder 10282  
after advertisement for not less than two nor more than four 10283  
consecutive weeks in a newspaper of general circulation within the 10284  
village. The bids shall be opened and shall be publicly read by 10285  
the village administrator or a person designated by the village 10286  
administrator at the time, date, and place as specified in the 10287  
advertisement to bidders or specifications. The time, date, and 10288  
place of bid openings may be extended to a later date by the 10289  
village administrator, provided that written or oral notice of the 10290  
change shall be given to all persons who have received or 10291  
requested specifications no later than ninety-six hours prior to 10292  
the original time and date fixed for the opening. All contracts 10293  
shall be executed in the name of the village and signed on its 10294  
behalf by the village administrator and the clerk. 10295

The legislative authority of a village may provide, by 10296  
ordinance, for central purchasing for all offices, departments, 10297  
divisions, boards, and commissions of the village, under the 10298  
direction of the village administrator, who shall make contracts, 10299  
purchase supplies or materials, and provide labor for any work of 10300  
the village in the manner provided by this section. 10301

**Sec. 735.05.** The director of public service may make any 10302  
contract, purchase supplies or material, or provide labor for any 10303  
work under the supervision of the department of public service 10304  
involving not more than ~~fifteen~~ twenty-five thousand dollars. When 10305

an expenditure within the department, other than the compensation 10306  
of persons employed ~~therein~~ in the department, exceeds ~~fifteen~~ 10307  
twenty-five thousand dollars, ~~such~~ the expenditure shall first be 10308  
authorized and directed by ordinance of the city legislative 10309  
authority. When so authorized and directed, except where the 10310  
contract is for equipment, services, materials, or supplies to be 10311  
purchased under division (D) of section 713.23 or section 125.04 10312  
or 5513.01 of the Revised Code or available from a qualified 10313  
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 10314  
Revised Code, the director shall make a written contract with the 10315  
lowest and best bidder after advertisement for not less than two 10316  
nor more than four consecutive weeks in a newspaper of general 10317  
circulation within the city. 10318

**Sec. 737.03.** The director of public safety shall manage<sup>7</sup> and 10319  
make all contracts with reference to ~~the~~ police stations, fire 10320  
houses, reform schools, infirmaries, hospitals, workhouses, farms, 10321  
pesthouses, and all other charitable and reformatory institutions. 10322  
In the control and supervision of those institutions, the director 10323  
shall be governed by the provisions of Title VII of the Revised 10324  
Code relating to those institutions. 10325

The director may make all contracts and expenditures of money 10326  
for acquiring lands for the erection or repairing of station 10327  
houses, police stations, fire department buildings, fire cisterns, 10328  
and plugs, that are required, for the purchase of engines, 10329  
apparatus, and all other supplies necessary for the police and 10330  
fire departments, and for other undertakings and departments under 10331  
the director's supervision, but no obligation involving an 10332  
expenditure of more than ~~fifteen~~ twenty-five thousand dollars 10333  
shall be created unless first authorized and directed by 10334  
ordinance. In making, altering, or modifying those contracts, the 10335  
director shall be governed by sections 735.05 to 735.09 of the 10336  
Revised Code, except that all bids shall be filed with and opened 10337

by the director. The director shall make no sale or disposition of 10338  
any property belonging to the city without first being authorized 10339  
by resolution or ordinance of the city legislative authority. 10340

**Sec. 753.22.** (A) The director of public safety or the joint 10341  
board established pursuant to section 753.15 of the Revised Code 10342  
may establish a commissary for the workhouse. The commissary may 10343  
be established either in-house or by another arrangement. If a 10344  
commissary is established, all persons incarcerated in the 10345  
workhouse shall receive commissary privileges. A person's 10346  
purchases from the commissary shall be deducted from the person's 10347  
account record in the workhouse's business office. The commissary 10348  
shall provide for the distribution to indigent persons 10349  
incarcerated in the workhouse necessary hygiene articles and 10350  
writing materials. 10351

(B) If a commissary is established, the director of public 10352  
safety or the joint board established pursuant to section 753.15 10353  
of the Revised Code shall establish a commissary fund for the 10354  
workhouse. The management of funds in the commissary fund shall be 10355  
strictly controlled in accordance with procedures adopted by the 10356  
auditor of state. Commissary fund revenue over and above operating 10357  
costs and reserve shall be considered profits. All profits from 10358  
the commissary fund shall be used to purchase supplies and 10359  
equipment for the benefit of persons incarcerated in the workhouse 10360  
and to pay salary and benefits for employees of the workhouse, or 10361  
for any other persons, who work in or are employed for the sole 10362  
purpose of providing service to the commissary. The director of 10363  
public safety or the joint board established pursuant to section 10364  
753.15 of the Revised Code shall adopt rules and regulations for 10365  
the operation of any commissary fund the director or the joint 10366  
board establishes. 10367

**Sec. 901.17.** (A) The division of markets ~~shall~~ may do all of 10368

the following:	10369
<del>(1)</del> (A) Investigate the cost of production and marketing in all its phases;	10370 10371
<del>(2)</del> (B) Gather and disseminate information concerning supply, demand, prevailing prices, and commercial movements, including common and cold storage of food products, and maintain market news service for disseminating such information;	10372 10373 10374 10375
<del>(3)</del> (C) Promote, assist, and encourage the organization and operation of cooperative and other associations and organizations for improving the relations and services among producers, distributors, and consumers of food products;	10376 10377 10378 10379
<del>(4)</del> (D) Investigate the practice, methods, and any specific transaction of commission merchants and others who receive, solicit, buy, or handle on commission or otherwise, food products;	10380 10381 10382
<del>(5)</del> (E) Act as mediator or arbitrator, when invited, in any controversy or issue that arises between producers and distributors and that affects the interest of the consumer;	10383 10384 10385
<del>(6)</del> (F) Act on behalf of the consumers in conserving and protecting their interests in every practicable way against excessive prices;	10386 10387 10388
<del>(7)</del> (G) Act as market adviser for producers and distributors, assisting them in economical and efficient distribution of good products at fair prices;	10389 10390 10391
<del>(8)</del> (H) Encourage the establishment of retail municipal markets and develop direct dealing between producers and consumers;	10392 10393 10394
<del>(9)</del> (I) Encourage the consumption of Ohio-grown products within the state, nationally, and internationally, <del>and inspect and determine the grade and condition of farm produce, both at collecting and receiving centers within the state;</del>	10395 10396 10397 10398

~~(10)(J)~~ Take such means and use such powers, relative to shipment, transportation, and storage of foodstuffs of any kind, as are necessary, advisable, or desirable in case of an emergency creating or threatening to create a scarcity of food within the state;

(K) Participate in trade missions between states and foreign countries in order to encourage the sale and promotion of Ohio-grown products.

~~(B)(1) The director of agriculture shall adopt and may amend schedules of fees to be charged for inspecting farm produce at collecting and receiving centers or such other services as may be rendered under this section. All such fees shall be made with a view to the minimum cost and to make this branch of the department of agriculture self-sustaining.~~

~~The fees shall be deposited in the state treasury and credited to the inspection fund, which is hereby created, for use in carrying out the purposes of this section. All investment earnings of the inspection fund shall be credited to the fund. If, in any year, the balance in the inspection fund is not sufficient to meet the expenses incurred pursuant to this section, the deficit shall be paid from funds appropriated for the use of the department.~~

~~(2) The director may adopt a schedule of fees to be charged for inspecting any agricultural product for the purposes of the issuance of an export certificate, as may be required by the United States department of agriculture or foreign purchasers. Such fees shall be credited to the general revenue fund.~~

**Sec. 901.21.** (A) As used in this section and section 901.22 of the Revised Code:

(1) "Agricultural easement" has the same meaning as in



section 5301.67 of the Revised Code. 10429

(2) "Agriculture" means those activities occurring on land 10430  
devoted exclusively to agricultural use, as defined in section 10431  
5713.30 of the Revised Code, or on land that constitutes a 10432  
homestead. 10433

(3) "Homestead" means the portion of a farm on which is 10434  
located a dwelling house, yard, or outbuildings such as a barn or 10435  
garage. 10436

(B) The director of agriculture may acquire real property 10437  
used predominantly in agriculture and agricultural easements by 10438  
gift, devise, or bequest if, at the time an easement is granted, 10439  
such an easement is on land that is valued for purposes of real 10440  
property taxation at its current value for agricultural use under 10441  
section 5713.31 of the Revised Code or that constitutes a 10442  
homestead. Any terms may be included in an agricultural easement 10443  
so acquired that are necessary or appropriate to preserve on 10444  
behalf of the grantor of the easement the favorable tax 10445  
consequences of the gift, devise, or bequest under the "Internal 10446  
Revenue Act of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 10447  
The director, by any such means or by purchase or lease, may 10448  
acquire, or acquire the use of, stationary personal property or 10449  
equipment that is located on land acquired in fee by the director 10450  
under this section and that is necessary or appropriate for the 10451  
use of the land predominantly in agriculture. 10452

(C) The director may do all things necessary or appropriate 10453  
to retain the use of real property acquired in fee under division 10454  
(B) of this section predominantly in agriculture, including, 10455  
without limitation, performing any of the activities described in 10456  
division (A)(1) or (2) of section 5713.30 of the Revised Code or 10457  
entering into contracts to lease or rent the real property so 10458  
acquired to persons or governmental entities that will use the 10459  
land predominantly in agriculture. 10460

(D)(1) When the director considers it to be necessary or 10461  
appropriate, the director may sell real property acquired in fee, 10462  
and stationary personal property or equipment acquired by gift, 10463  
devise, bequest, or purchase, under division (B) of this section 10464  
on such terms as the director considers to be advantageous to this 10465  
state. 10466

(2) An agricultural easement acquired under division (B) of 10467  
this section may be extinguished under the circumstances 10468  
prescribed, and in accordance with the terms and conditions set 10469  
forth, in the instrument conveying the agricultural easement. 10470

(E) There is hereby created in the state treasury the 10471  
agricultural easement purchase fund. The fund shall consist of the 10472  
proceeds received from the sale of real and personal property 10473  
under division (D) of this section; moneys received due to the 10474  
extinguishment of agricultural easements acquired by the director 10475  
under division (B) of this section or section 5301.691 of the 10476  
Revised Code; moneys received due to the extinguishment of 10477  
agricultural easements purchased with the assistance of matching 10478  
grants made under section 901.22 of the Revised Code; gifts, 10479  
bequests, devises, and contributions received by the director for 10480  
the purpose of acquiring agricultural easements; and grants 10481  
received from public or private sources for the purpose of 10482  
purchasing agricultural easements. The fund shall be administered 10483  
by the director, and moneys in the fund shall be used by the 10484  
director exclusively to purchase agricultural easements under 10485  
division (A) of section 5301.691 of the Revised Code and provide 10486  
matching grants under section 901.22 of the Revised Code to 10487  
municipal corporations, counties, townships, soil and water 10488  
conservation districts established under Chapter 1515. of the 10489  
Revised Code, and charitable organizations described in division 10490  
(B) of section 5301.69 of the Revised Code for the purchase of 10491  
agricultural easements. Money in the fund shall be used only to 10492

purchase agricultural easements on land that is valued for 10493  
purposes of real property taxation at its current value for 10494  
agricultural use under section 5713.31 of the Revised Code or that 10495  
constitutes a homestead when the easement is purchased. 10496

(F) There is hereby created in the state treasury the clean 10497  
Ohio agricultural easement fund. Twelve and one-half per cent of 10498  
net proceeds of obligations issued and sold pursuant to sections 10499  
151.01 and 151.09 of the Revised Code shall be deposited into the 10500  
fund. The fund shall be used by the director for the purposes of 10501  
~~sections 901.21 and this section, section 901.22 of the Revised~~ 10502  
Code, and the provisions of sections 5301.67 to 5301.70 of the 10503  
Revised Code governing agricultural easements. Investment earnings 10504  
of the fund shall be credited to the fund. ~~For two years after the~~ 10505  
~~effective date of this amendment, investment earnings credited to~~ 10506  
~~the fund and~~ and may be used to pay costs incurred by the director in 10507  
administering those sections and provisions. 10508

(G) The term of an agricultural easement purchased wholly or 10509  
in part with money from the clean Ohio agricultural easement fund 10510  
or the agricultural easement purchase fund shall be perpetual and 10511  
shall run with the land. 10512

**Sec. 901.22.** (A) The director of agriculture, in accordance 10513  
with Chapter 119. of the Revised Code, shall adopt rules that do 10514  
all of the following: 10515

(1) Establish procedures and eligibility criteria for making 10516  
matching grants to municipal corporations, counties, townships, 10517  
soil and water conservation districts established under Chapter 10518  
1515. of the Revised Code, and charitable organizations described 10519  
in division (B) of section 5301.69 of the Revised Code for the 10520  
purchase of agricultural easements. With respect to agricultural 10521  
easements that are purchased or proposed to be purchased with such 10522  
matching grants that consist in whole or in part of moneys from 10523

the clean Ohio agricultural easement fund created in section 10524  
901.21 of the Revised Code, the rules shall establish all of the 10525  
following: 10526

(a) Procedures for all of the following: 10527

(i) Soliciting and accepting applications for matching 10528  
grants; 10529

(ii) Participation by local governments and by the public in 10530  
the process of making matching grants to charitable organizations; 10531

(iii) Notifying local governments, charitable organizations, 10532  
and organizations that represent the interests of farmers of the 10533  
ranking system established in rules adopted under division 10534  
(A)(1)(b) of this section. 10535

(b) A ranking system for applications for the matching grants 10536  
that is based on the soil type, proximity of the land or other 10537  
land that is conducive to agriculture as defined by rules adopted 10538  
under this section and that is the subject of an application to 10539  
other agricultural land or other land that is conducive to 10540  
agriculture as defined by rules adopted under this section and 10541  
that is already or is in the process of becoming permanently 10542  
protected from development, farm stewardship, development 10543  
pressure, and, if applicable, a local comprehensive land use plan 10544  
involved with a proposed agricultural easement. The rules shall 10545  
require that preference be given to proposed agricultural 10546  
easements that involve the greatest proportion of all of the 10547  
following: 10548

(i) Prime soils, unique or locally important soils, 10549  
microclimates, or similar features; 10550

(ii) Land that is adjacent to or that is in close proximity 10551  
to other agricultural land or other land that is conducive to 10552  
agriculture as defined by rules adopted under this section and 10553  
that is already or is in the process of becoming permanently 10554

protected from development, by agricultural easement or otherwise, 10555  
so that a buffer would exist between the land involving the 10556  
proposed agricultural easement and areas that have been developed 10557  
or likely will be developed for purposes other than agriculture; 10558

(iii) The use of best management practices, including 10559  
federally or state approved conservation plans, and a history of 10560  
substantial compliance with applicable federal and state laws; 10561

(iv) Development pressure that is imminent, but not a result 10562  
of current location in the direct path of urban development; 10563

(v) Areas identified for agricultural protection in local 10564  
comprehensive land use plans. 10565

(c) Any other criteria that the director determines are 10566  
necessary for selecting applications for matching grants; 10567

(d) Requirements regarding the information that must be 10568  
included in the annual monitoring report that must be prepared for 10569  
an agricultural easement under division ~~(D)~~(E)(2) of section 10570  
5301.691 of the Revised Code, procedures for submitting a copy of 10571  
the report to the office of farmland preservation in the 10572  
department of agriculture, and requirements and procedures 10573  
governing corrective actions that may be necessary to enforce the 10574  
terms of the agricultural easement. 10575

(2) Establish provisions that shall be included in the 10576  
instrument conveying to a municipal corporation, county, township, 10577  
soil and water conservation district, or charitable organization 10578  
any agricultural easement purchased with matching grant funds 10579  
provided by the director under this section, including, without 10580  
limitation, all of the following provisions: 10581

(a) A provision stating that an easement so purchased may be 10582  
extinguished only if an unexpected change in the conditions of or 10583  
surrounding the land that is subject to the easement makes 10584  
impossible or impractical the continued use of the land for the 10585

purposes described in the easement, or if the requirements of the 10586  
easement are extinguished by judicial proceedings; 10587

(b) A provision requiring that, upon the sale, exchange, or 10588  
involuntary conversion of the land subject to the easement, the 10589  
holder of the easement shall be paid an amount of money that is at 10590  
least equal to the proportionate value of the easement compared to 10591  
the total value of the land at the time the easement was acquired; 10592

(c) A provision requiring that, upon receipt of the portion 10593  
of the proceeds of a sale, exchange, or involuntary conversion 10594  
described in division (A)(2)(b) of this section, the municipal 10595  
corporation, county, township, soil and water conservation 10596  
district, or charitable organization remit to the director an 10597  
amount of money equal to the percentage of the cost of purchasing 10598  
the easement it received as a matching grant under this section. 10599

Moneys received by the director pursuant to rules adopted 10600  
under division (A)(2)(c) of this section shall be credited to the 10601  
agricultural easement purchase fund created in section 901.21 of 10602  
the Revised Code. 10603

(3) Establish a provision that provides a charitable 10604  
organization ~~described in division (B) of section 5301.69 of the~~ 10605  
~~Revised Code~~, municipal corporation, township, ~~or~~ county, or soil 10606  
and water conservation district with the option of purchasing 10607  
agricultural easements either in installments or with a lump sum 10608  
payment. The rules shall include a requirement that a charitable 10609  
organization, municipal corporation, township, ~~or~~ county, or soil 10610  
and water conservation district negotiate with the seller of the 10611  
agricultural easement concerning any installment payment terms, 10612  
including the dates and amounts of payments and the interest rate 10613  
on the outstanding balance. The rules also shall require the 10614  
director to approve any method of payment that is undertaken in 10615  
accordance with the rules adopted under division (A)(3) of this 10616  
section. 10617

(4) Establish any other requirements that the director 10618  
considers to be necessary or appropriate to implement or 10619  
administer a program to make matching grants under this section 10620  
and monitor those grants. 10621

(B) The director may develop guidelines regarding the 10622  
acquisition of agricultural easements by the department of 10623  
agriculture and the provisions of instruments conveying those 10624  
easements. The director may make the guidelines available to 10625  
public and private entities authorized to acquire and hold 10626  
agricultural easements. 10627

(C) The director may provide technical assistance in 10628  
developing a program for the acquisition and monitoring of 10629  
agricultural easements to public and private entities authorized 10630  
to hold agricultural easements. The technical assistance may 10631  
include, without limitation, reviewing and providing advisory 10632  
recommendations regarding draft instruments conveying agricultural 10633  
easements. 10634

(D) The director may make matching grants from the 10635  
agricultural easement purchase fund and the clean Ohio 10636  
agricultural easement fund to municipal corporations, counties, 10637  
townships, soil and water conservation districts, and charitable 10638  
organizations ~~described in division (B) of section 5301.69 of the~~ 10639  
~~Revised Code~~, to assist those political subdivisions and 10640  
charitable organizations in purchasing agricultural easements. 10641  
Application for a matching grant shall be made on forms prescribed 10642  
and provided by the director. The matching grants shall be made in 10643  
compliance with the criteria and procedures established in rules 10644  
adopted under this section. Instruments conveying agricultural 10645  
easements purchased with matching grant funds provided under this 10646  
section, at a minimum, shall include the mandatory provisions set 10647  
forth in those rules. 10648

Matching grants made under this division using moneys from 10649  
the clean Ohio agricultural easement fund created in section 10650  
901.21 of the Revised Code may provide up to seventy-five per cent 10651  
of the value of an agricultural easement as determined by a 10652  
general real estate appraiser who is certified under Chapter 4763. 10653  
of the Revised Code or as determined through a points based 10654  
appraisal system that is recommended by the director. The method 10655  
of appraisal that is used shall be determined by the director. Not 10656  
less than twenty-five per cent of the value of the agricultural 10657  
easement shall be provided by the recipient of the matching grant 10658  
or donated by the person who is transferring the easement to the 10659  
grant recipient. The amount of such a matching grant used for the 10660  
purchase of a single agricultural easement shall not exceed one 10661  
million dollars. 10662

(E) For any agricultural easement purchased with a matching 10663  
grant that consists in whole or in part of moneys from the clean 10664  
Ohio agricultural easement fund, the director shall be named as a 10665  
grantee on the instrument conveying the easement, as shall the 10666  
municipal corporation, county, township, soil and water 10667  
conservation district, or charitable organization that receives 10668  
the grant. 10669

(F)(1) The director shall monitor and evaluate the 10670  
effectiveness and efficiency of the agricultural easement program 10671  
as a farmland preservation tool. On or before July 1, 1999, and 10672  
the first day of July of each year thereafter, the director shall 10673  
prepare and submit a report to the chairpersons of the standing 10674  
committees of the senate and the house of representatives that 10675  
consider legislation regarding agriculture. The report shall 10676  
consider and address the following criteria to determine the 10677  
program's effectiveness: 10678

(a) The number of agricultural easements purchased during the 10679  
preceding year; 10680



(b) The location of those easements;	10681
(c) The number of acres of land preserved for agricultural use;	10682 10683
(d) The amount of money used by a municipal corporation, township, <del>or county,</del> <u>or soil and water conservation district</u> from <del>its general fund or special</del> <u>any</u> fund to purchase the agricultural easements;	10684 10685 10686 10687
(e) The number of state matching grants given to purchase the agricultural easements;	10688 10689
(f) The amount of state matching grant moneys used to purchase the agricultural easements.	10690 10691
(2) The report also shall consider and include, at a minimum, the following information for each county to determine the program's efficiency:	10692 10693 10694
(a) The total number of acres in the county;	10695
(b) The total number of acres in current agricultural use;	10696
(c) The total number of acres preserved for agricultural use in the preceding year;	10697 10698
(d) The average cost, per acre, of land preserved for agricultural use in the preceding year.	10699 10700
<b>Sec. 901.63.</b> (A) The agricultural financing commission shall do both of the following until <del>July 1, 2003</del> <u>October 15, 2005</u> :	10701 10702
(1) Make recommendations to the director of agriculture about financial assistance applications made pursuant to sections 901.80 to 901.83 of the Revised Code. In making its recommendations, the commission shall utilize criteria established by rules adopted under division (A)(8)(b) of section 901.82 of the Revised Code.	10703 10704 10705 10706 10707
(2) Advise the director in the administration of sections	10708

901.80 to 901.83 of the Revised Code. 10709

With respect to sections 901.80 to 901.83 of the Revised 10710  
Code, the role of the commission is solely advisory. No officer, 10711  
member, or employee of the commission is liable for damages in a 10712  
civil action for any injury, death, or loss to person or property 10713  
that allegedly arises out of purchasing any loan or providing a 10714  
loan guarantee, failure to purchase a loan or provide a loan 10715  
guarantee, or failure to take action under sections 901.80 to 10716  
901.83 of the Revised Code, or that allegedly arises out of any 10717  
act or omission of the department of agriculture that involves 10718  
those sections. 10719

(B) The commission may: 10720

(1) Adopt bylaws for the conduct of its business; 10721

(2) Exercise all rights, powers, and duties conferred on the 10722  
commission as an issuer under Chapter 902. of the Revised Code; 10723

(3) Contract with, retain, or designate financial 10724  
consultants, accountants, and such other consultants and 10725  
independent contractors as the commission may determine to be 10726  
necessary or appropriate to carry out the purposes of this chapter 10727  
and to fix the terms of those contracts; 10728

(4) Undertake and carry out or authorize the completion of 10729  
studies and analyses of agricultural conditions and needs within 10730  
the state relevant to the purpose of this chapter to the extent 10731  
not otherwise undertaken by other departments or agencies of the 10732  
state satisfactory for that purpose; 10733

(5) Acquire by gift, purchase, foreclosure, or other means, 10734  
and hold, assign, pledge, lease, transfer, or otherwise dispose 10735  
of, real and personal property, or any interest in that real and 10736  
personal property, in the exercise of its powers and the 10737  
performance of its duties under this chapter and Chapter 902. of 10738  
the Revised Code; 10739

(6) Receive and accept gifts, grants, loans, or any other financial or other form of aid from any federal, state, local, or private agency or fund and enter into any contract with any such agency or fund in connection therewith, and receive and accept aid or contributions from any other source of money, property, labor, or things of value, to be held, used, and applied only for the purposes for which the grants and contributions are made, all within the purposes of this chapter and Chapter 902. of the Revised Code;

(7) Sue and be sued in its own name with respect to its contracts or to enforce this chapter or its obligations or covenants made under this chapter and Chapter 902. of the Revised Code;

(8) Make and enter into all contracts, commitments, and agreements, and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under this chapter and Chapter 902. of the Revised Code;

(9) Adopt an official seal;

(10) Do any and all things necessary or appropriate to carry out the public purposes and exercise the powers granted to the commission in this chapter and Chapter 902. of the Revised Code and the public purposes of Section 13 of Article VIII, Ohio Constitution.

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

Sec. 901.85. There is hereby created in the state treasury the farm service agency electronic filing fund, which shall consist of money reimbursed to the fund by the farm service agency

in the United States department of agriculture together with any 10770  
money appropriated to the fund by the general assembly. The 10771  
director of agriculture shall use money credited to the fund to 10772  
pay the secretary of state for fees that the secretary of state 10773  
charges in advance for the electronic filing by the farm service 10774  
agency of financing statements related to agricultural loans that 10775  
the farm service agency disburses. 10776

**Sec. 902.11.** (A) Any real or personal property, or both, of 10777  
an issuer ~~which~~ that is acquired, constructed, reconstructed, 10778  
enlarged, improved, furnished, or equipped, or any combination 10779  
thereof, and leased or subleased under authority of this chapter 10780  
shall be subject to ad valorem, sales, use, and franchise taxes 10781  
and to zoning, planning, and building regulations and fees, to the 10782  
same extent and in the same manner as if the lessee-user or 10783  
sublessee-user thereof, rather than the issuer, had acquired, 10784  
constructed, reconstructed, enlarged, improved, furnished, or 10785  
equipped, or any combination thereof, such real or personal 10786  
property, and title thereto was in the name of such lessee-user or 10787  
sublessee-user. 10788

The transfer of tangible personal property by lease or 10789  
sublease under authority of this chapter is not a sale as used in 10790  
Chapter 5739. of the Revised Code. The exemptions provided in 10791  
divisions (B)(1) and ~~(14)~~(13) of section 5739.02 of the Revised 10792  
Code shall not be applicable to purchases for a project under this 10793  
chapter. 10794

An issuer shall be exempt from all taxes on its real or 10795  
personal property, or both, which has been acquired, constructed, 10796  
reconstructed, enlarged, improved, furnished, or equipped, or any 10797  
combination thereof, under this chapter so long as such property 10798  
is used by the issuer for purposes which would otherwise exempt 10799  
such property; has ceased to be used by a former lessee-user or 10800

sublessee-user and is not occupied or used; or has been acquired 10801  
by the issuer but development has not yet commenced. The exemption 10802  
shall be effective as of the date the exempt use begins. All taxes 10803  
on the exempt real or personal property for the year should be 10804  
prorated and the taxes for the exempt portion of the year shall be 10805  
remitted by the county auditor. 10806

(B) Bonds issued under this chapter, the transfer thereof, 10807  
and the interest and other income from the bonds, including any 10808  
profit made on the sale thereof, are free from taxation within the 10809  
state. 10810

**Sec. 921.151.** The pesticide program fund is hereby created in 10811  
the state treasury. All The portion of the money in the fund that 10812  
is collected under this chapter shall be used to carry out the 10813  
purposes of this chapter. The portion of the money in the fund 10814  
that is collected under section 927.53 of the Revised Code shall 10815  
be used to carry out the purposes specified in that section, the 10816  
portion of the money in the fund that is collected under section 10817  
927.69 of the Revised Code shall be used to carry out the purposes 10818  
specified in that section, and the portion of the money in the 10819  
fund that is collected under section 927.701 of the Revised Code 10820  
shall be used to carry out the purposes of that section. The fund 10821  
shall consist of fees collected under sections 921.01 to 921.15, 10822  
division (F) of section 927.53, and section 927.69 of the Revised 10823  
Code, money collected under section 927.701 of the Revised Code, 10824  
and all fines, penalties, costs, and damages, except court costs, 10825  
~~which that~~ are collected by either the director of agriculture or 10826  
the attorney general in consequence of any violation of sections 10827  
921.01 to 921.29 of the Revised Code. Not later than the thirtieth 10828  
day of June of each year, the director of budget and management 10829  
shall determine whether the amount credited to the pesticide 10830  
program fund under this chapter is in excess of the amount 10831  
necessary to meet the expenses of the director of agriculture in 10832

administering this chapter and shall transfer any such excess from 10833  
the pesticide program fund to the general revenue fund. 10834

**Sec. 927.53.** (A) Each collector or dealer who sells, offers, 10835  
or exposes for sale, or distributes nursery stock within this 10836  
state, or ships nursery stock to other states, shall pay an annual 10837  
license fee of fifty dollars to the director of agriculture for 10838  
each place of business ~~he~~ the collector or dealer operates. 10839

(B)(1) Each dealer shall furnish the director, annually, an 10840  
affidavit that ~~he~~ the dealer will buy and sell only nursery stock 10841  
which has been inspected and certified by an official state or 10842  
federal inspector. 10843

(2) Each dealer's license expires on the thirty-first day of 10844  
December of each year. Each licensed dealer shall apply for 10845  
renewal of ~~his~~ the dealer's license prior to the first day of 10846  
January of each year and in accordance with the standard renewal 10847  
procedure of sections 4745.01 to 4745.03 of the Revised Code. 10848

(C) Each licensed ~~nurseryman~~ nurseryperson shall post 10849  
conspicuously in ~~his~~ the nurseryperson's principal place of 10850  
business, the certificate which is issued to ~~him~~ the nurseryperson 10851  
in accordance with section 927.61 of the Revised Code. 10852

(D) Each licensed ~~nurseryman~~ nurseryperson, or dealer, shall 10853  
post conspicuously in each place of business, each certificate or 10854  
license which is issued to ~~him~~ the nurseryperson or dealer in 10855  
compliance with this section or section 927.61 of the Revised 10856  
Code. 10857

(E)(1) Each ~~nurseryman~~ nurseryperson who produces, sells, 10858  
offers for sale, or distributes woody nursery stock within the 10859  
state, or ships woody nursery stock to other states, shall pay to 10860  
the director an annual inspection fee of fifty dollars plus four 10861  
dollars per acre, or fraction thereof, of growing nursery stock in 10862

intensive production areas and two dollars per acre, or fraction thereof, of growing nursery stock in nonintensive production areas, as applicable. 10863  
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(2) Each ~~nurseryman~~ nurseryperson who limits ~~his~~ production and sales of nursery stock to brambles, herbaceous, perennial, and other nonwoody plants, shall pay to the director an inspection fee of thirty dollars, plus four dollars per acre, or fraction thereof, of growing nursery stock in intensive and nonintensive production areas. 10866  
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(F) On and after the effective date of this amendment, the following additional fees shall be assessed: 10872  
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(1) Each collector or dealer who pays a fee under division (A) of this section shall pay an additional fee of twenty-five dollars. 10874  
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(2) Each nurseryperson who pays fees under division (E)(1) of this section shall pay additional fees as follows: 10877  
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(a) Fifteen dollars for the inspection fee; 10879

(b) Fifty cents per acre, or fraction thereof, of growing nursery stock in intensive production areas; 10880  
10881

(c) One dollar and fifty cents per acre, or fraction thereof, of growing nursery stock in nonintensive production areas. 10882  
10883

(3) Each nursery person who pays fees under division (E)(2) of this section shall pay additional fees as follows: 10884  
10885

(a) Thirty-five dollars for the inspection fee; 10886

(b) Fifty cents per acre, or fraction thereof, of growing stock in intensive and nonintensive production areas. 10887  
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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 10889  
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costs incurred by the department of agriculture in administering 10893  
this chapter, including employing a minimum of two additional 10894  
inspectors. 10895

**Sec. 927.69.** To effect the purpose of sections 927.51 to 10896  
927.74, ~~inclusive,~~ of the Revised Code, the director of 10897  
agriculture, ~~or his~~ the director's authorized representative, may: 10898

(A) Make reasonable inspection of any premises in this state 10899  
and any property therein or thereon; 10900

(B) Stop and inspect in a reasonable manner, any means of 10901  
conveyance moving within this state upon probable cause to believe 10902  
it contains or carries any pest, host, commodity, or other article 10903  
~~which~~ that is subject to sections 927.51 to 927.72, ~~inclusive,~~ of 10904  
the Revised Code; 10905

(C) Conduct inspections of agricultural products that are 10906  
required by other states, the United States department of 10907  
agriculture, other federal agencies, or foreign countries to 10908  
determine whether the products are infested. If, upon making such 10909  
an inspection, the director or the director's authorized 10910  
representative determines that an agricultural product is not 10911  
infested, the director or the director's authorized representative 10912  
may issue a certificate, as required by other states, the United 10913  
States department of agriculture, other federal agencies, or 10914  
foreign countries, indicating that the product is not infested. 10915

If the director charges fees for any of the certificates, 10916  
agreements, or inspections specified in this section, the fees 10917  
shall be as follows: 10918

(1) Phyto sanitary certificates, twenty-five dollars; 10919

(2) Compliance agreements, twenty dollars; 10920

(3) Solid wood packing certificates, twenty dollars; 10921

(4) Agricultural products and their conveyances inspections, 10922



sixty-five dollars. 10923

The director may adopt rules under section 927.52 of the 10924  
Revised Code that define the certificates, agreements, and 10925  
inspections. 10926

The fees shall be deposited into the state treasury to the 10927  
credit of the pesticide program fund created in Chapter 921. of 10928  
the Revised Code. Money credited to the fund shall be used to pay 10929  
the costs incurred by the department of agriculture in 10930  
administering this chapter, including employing a minimum of two 10931  
additional inspectors. 10932

Sec. 927.701. (A) As used in this section, "gypsy moth" means 10933  
the live insect, Lymantria dispar, in any stage of development. 10934  
10935

(B) The director of agriculture may establish a voluntary 10936  
gypsy moth suppression program under which a landowner may request 10937  
that the department of agriculture have the landowner's property 10938  
aerially sprayed to suppress the presence of gypsy moths in 10939  
exchange for payment from the landowner of a portion of the cost 10940  
of the spraying. To determine the amount of payment that is due 10941  
from a landowner, the department first shall determine the 10942  
projected cost per acre to the department of gypsy moth 10943  
suppression activities for the year in which the landowner's 10944  
request is made. The cost shall be calculated by determining the 10945  
total expense of aerial spraying for gypsy moths to be incurred by 10946  
the department in that year divided by the total number of acres 10947  
proposed to be sprayed in that year. With respect to a landowner, 10948  
the department shall multiply the cost per acre by the number of 10949  
acres that the landowner requests to be sprayed. The department 10950  
shall add to that amount any administrative costs that it incurs 10951  
in billing the landowner and collecting payment. The amount that 10952  
the landowner shall pay to the department shall not exceed fifty 10953

per cent of the resulting amount. 10954

(C) The director shall adopt rules under Chapter 119. of the 10955  
Revised Code to establish procedures under which a landowner may 10956  
make a request under division (B) of this section and to establish 10957  
provisions governing agreements between the department and 10958  
landowners concerning gypsy moth suppression together with any 10959  
other provisions that the director considers appropriate to 10960  
administer this section. 10961

(D) The director shall deposit all money collected under this 10962  
section into the state treasury to the credit of the pesticide 10963  
program fund created in Chapter 921. of the Revised Code. Money 10964  
credited to the fund under this section shall be used for the 10965  
suppression of gypsy moths in accordance with this section. 10966

**Sec. 929.01.** As used in ~~Chapter 929. of the Revised Code~~ this 10967  
chapter: 10968

(A) "Agricultural production" means commercial aquaculture, 10969  
apiculture, animal husbandry, or poultry husbandry; the production 10970  
for a commercial purpose of timber, field crops, tobacco, fruits, 10971  
vegetables, nursery stock, ornamental shrubs, ornamental trees, 10972  
flowers, or sod; the growth of timber for a noncommercial purpose, 10973  
if the land on which the timber is grown is contiguous to or part 10974  
of a parcel of land under common ownership that is otherwise 10975  
devoted exclusively to agricultural use; or any combination of 10976  
such husbandry, production, or growth; and includes the 10977  
processing, drying, storage, and marketing of agricultural 10978  
products when those activities are conducted in conjunction with 10979  
such husbandry, production, or growth. 10980

"Agricultural production" includes conservation practices, 10981  
provided that the tracts, lots, or parcels of land or portions 10982  
thereof that are used for conservation practices comprise not more 10983  
than twenty-five per cent of tracts, lots, or parcels of land that 10984

are otherwise devoted exclusively to agricultural use and for 10985  
which an application is filed under section 929.02 of the Revised 10986  
Code. 10987

(B) "Withdrawal from an agricultural district" includes the 10988  
explicit removal of land from an agricultural district, conversion 10989  
of land in an agricultural district to use for purposes other than 10990  
agricultural production, and withdrawal of land from a land 10991  
retirement or conservation program to use for ~~purposes~~ purposes 10992  
other than agricultural production. Withdrawal from an 10993  
agricultural district does not include land described in division 10994  
(A)(4) of section 5713.30 of the Revised Code. 10995

(C) "Conservation practice" has the same meaning as in 10996  
section 5713.30 of the Revised Code. 10997

**Sec. 955.51.** (A) Any owner of horses, sheep, cattle, swine, 10998  
mules, goats, domestic rabbits, or domestic fowl or poultry that 10999  
have an aggregate fair market value of ten dollars or more and 11000  
that have been injured or killed by a coyote or a black vulture 11001  
shall notify the dog warden within three days after the loss or 11002  
injury has been discovered. The dog warden promptly shall 11003  
investigate the loss or injury and shall determine whether or not 11004  
the loss or injury was made by a coyote or a black vulture. If the 11005  
dog warden finds that the loss or injury was not made by a coyote 11006  
or a black vulture, the owner has no claim under sections 955.51 11007  
to 955.53 of the Revised Code. If the dog warden finds that the 11008  
loss or injury was made by a coyote or a black vulture, ~~he~~ the dog 11009  
warden promptly shall notify the wildlife officer of that finding. 11010  
The wildlife officer then shall confirm the finding, disaffirm it, 11011  
or state that ~~he~~ the wildlife officer is uncertain about the 11012  
finding. If the wildlife officer affirms the finding of the dog 11013  
warden or states that ~~he~~ the wildlife officer is uncertain about 11014  
that finding, the owner may proceed with ~~his~~ a claim under 11015

sections 955.51 to 955.53 of the Revised Code, and the dog warden 11016  
shall provide the owner with duplicate copies of the claim form 11017  
provided for in section 955.53 of the Revised Code and assist ~~him~~ 11018  
the owner in filling it out. The owner shall set forth the kind, 11019  
grade, quality, and what ~~he~~ the owner has determined is the fair 11020  
market value of the animals, fowl, or poultry, the nature and 11021  
amount of the loss or injury, the place where the loss or injury 11022  
occurred, and all other pertinent facts in the possession of the 11023  
claimant. If the animals, fowl, or poultry die as a result of 11024  
their injuries, their fair market value is the market value of 11025  
uninjured animals, fowl, or poultry on the date of the death of 11026  
the injured animals, fowl, or poultry. If the animals, fowl, or 11027  
poultry do not die as a result of their injuries, their fair 11028  
market value is their market value on the date on which they 11029  
received their injuries. 11030

(B) If the dog warden finds all the statements that the owner 11031  
made on the form to be correct and agrees with the owner as to the 11032  
fair market value of the animals, fowl, or poultry, ~~he~~ the dog 11033  
warden promptly shall so certify and send both copies of the form, 11034  
together with whatever other documents, testimony, or information 11035  
~~he~~ the dog warden has received relating to the loss or injury, to 11036  
the department of agriculture. 11037

(C) If the dog warden does not find all the statements to be 11038  
correct or does not agree with the owner as to the fair market 11039  
value, the owner may appeal to the department of agriculture for a 11040  
determination of ~~his~~ the owner's claim. In that case the owner 11041  
shall secure statements as to the nature and amount of the loss or 11042  
injury from at least two witnesses who viewed the results of the 11043  
killing or injury and who can testify about the results and shall 11044  
submit both copies of the form to the department no later than 11045  
twenty days after the loss or injury was discovered. The dog 11046  
warden shall submit to the department whatever documents, 11047

testimony, and other information ~~he~~ the dog warden has received 11048  
relating to the loss or injury. The department shall receive any 11049  
other information or testimony that will enable it to determine 11050  
the fair market value of the animals, fowl, or poultry injured or 11051  
killed. 11052

(D) If the animals, fowl, or poultry described in division 11053  
(A) of this section are registered in any accepted association or 11054  
registry, the owner or ~~his~~ the owner's employee or tenant shall 11055  
submit with the claim form the registration papers showing the 11056  
lines of breeding, age, and other relevant matters. If the animals 11057  
are the offspring of registered stock and eligible for 11058  
registration, the registration papers showing the breeding of the 11059  
offspring shall be submitted. 11060

**Sec. 1309.109.** (A) Except as otherwise provided in divisions 11061  
(C) and (D) of this section, this chapter applies to the 11062  
following: 11063

(1) A transaction, regardless of its form, that creates a 11064  
security interest in personal property or fixtures by contract; 11065

(2) An agricultural lien; 11066

(3) A sale of accounts, chattel paper, payment intangibles, 11067  
or promissory notes; 11068

(4) A consignment; 11069

(5) A security interest arising under section 1302.42 or 11070  
1302.49, division (C) of section 1302.85, or division (E) of 11071  
section 1310.54 of the Revised Code, as provided in section 11072  
1309.110 of the Revised Code; and 11073

(6) A security interest arising under section 1304.20 or 11074  
1305.18 of the Revised Code. 11075

(B) The application of this chapter to a security interest in 11076  
a secured obligation is not affected by the fact that the 11077

obligation is itself secured by a transaction or interest to which 11078  
this chapter does not apply. 11079

(C) This chapter does not apply to the extent that: 11080

(1) A statute, regulation, or treaty of the United States 11081  
preempts this chapter; or 11082

(2) The rights of a transferee beneficiary or nominated 11083  
person under a letter of credit are independent and superior under 11084  
section 1305.13 of the Revised Code. 11085

(D) This chapter does not apply to the following: 11086

(1) A landlord's lien, other than an agricultural lien; 11087

(2)(a) A lien, not enumerated in division (D)(2) of this 11088  
section and other than an agricultural lien, given by statute or 11089  
other rule of law for services or materials, including any lien 11090  
created under any provision of Chapter 926., sections 1311.55 to 11091  
1311.57, sections 1311.71 to 1311.80, section 1701.66, or Chapter 11092  
4585. of the Revised Code; 11093

(b) Notwithstanding division (D)(2)(a) of this section, 11094  
section 1309.333 of the Revised Code applies with respect to 11095  
priority of the lien. 11096

(3) An assignment of a claim for wages, salary, or other 11097  
compensation of an employee; 11098

(4) A sale of accounts, chattel paper, payment intangibles, 11099  
or promissory notes as part of a sale of the business out of which 11100  
they arose; 11101

(5) An assignment of accounts, chattel paper, payment 11102  
intangibles, or promissory notes that is for the purpose of 11103  
collection only; 11104

(6) An assignment of a right to payment under a contract to 11105  
an assignee that is also obligated to perform under the contract; 11106

(7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;	11107 11108 11109
(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;	11110 11111 11112 11113 11114 11115
(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;	11116 11117
(10) A right of recoupment or set-off, but:	11118
(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	11119 11120 11121
(b) Section 1309.404 of the Revised Code applies with respect to defenses or claims of an account debtor.	11122 11123
(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:	11124 11125 11126
(a) Liens on real property in sections 1309.203 and 1309.308 of the Revised Code;	11127 11128
(b) Fixtures in section 1309.334 of the Revised Code;	11129
(c) Fixture filings in sections 1309.501, 1309.502, 1309.512, 1309.516, and 1309.519 of the Revised Code; and	11130 11131
(d) Security agreements covering personal and real property in section 1309.604 of the Revised Code.	11132 11133
(12) An assignment of a claim arising in tort, other than a commercial tort claim, but sections 1309.315 and 1309.322 of the	11134 11135

Revised Code apply with respect to proceeds and priorities in 11136  
proceeds; 11137

(13) An assignment of a deposit account in a consumer 11138  
transaction, but sections 1309.315 and 1309.322 of the Revised 11139  
Code apply with respect to proceeds and priorities in proceeds; or 11140

(14) A transfer by a government, state, or governmental unit. 11141

(E) The granting of a security interest in all or any part of 11142  
a lottery prize award for consideration is subject to the 11143  
prohibition of division ~~(A)(3)(C)~~ of section 3770.07 of the 11144  
Revised Code. The sale, assignment, or other redirection of a 11145  
lottery prize award for consideration is subject to the provisions 11146  
of division ~~(A)(4)(D)~~ of section 3770.07 and sections 3770.10 to 11147  
3770.14 of the Revised Code. 11148

**Sec. 1317.07.** No retail installment contract authorized by 11149  
section 1317.03 of the Revised Code that is executed in connection 11150  
with any retail installment sale shall evidence any indebtedness 11151  
in excess of the time balance fixed in the written instrument in 11152  
compliance with section 1317.04 of the Revised Code, but it may 11153  
evidence in addition any agreements of the parties for the payment 11154  
of delinquent charges, as provided for in section 1317.06 of the 11155  
Revised Code, taxes, and any lawful fee actually paid out, or to 11156  
be paid out, by the retail seller to any public officer for 11157  
filing, recording, or releasing any instrument securing the 11158  
payment of the obligation owed on any retail installment contract. 11159  
No retail seller, directly or indirectly, shall charge, contract 11160  
for, or receive from any retail buyer, any further or other amount 11161  
for examination, service, brokerage, commission, expense, fee, or 11162  
other thing of value. A documentary service charge customarily and 11163  
presently being paid on May 9, 1949, in a particular business and 11164  
area may be charged if the charge does not exceed ~~fifty one~~ 11165  
hundred dollars per sale. 11166



No retail seller shall use multiple agreements with respect 11167  
to a single item or related items purchased at the same time, with 11168  
intent to obtain a higher charge than would otherwise be permitted 11169  
by Chapter 1317. of the Revised Code or to avoid disclosure of an 11170  
annual percentage rate, nor by use of such agreements make any 11171  
charge greater than that which would be permitted by Chapter 1317. 11172  
of the Revised Code had a single agreement been used. 11173

**Sec. 1321.21.** All fees, charges, penalties, and forfeitures 11174  
collected under Chapters 1321., 1322., 4712., 4727., and 4728., 11175  
sections 1315.21 to 1315.30, ~~and~~ sections 1315.35 to 1315.44, and 11176  
sections 1349.25 to 1349.37 of the Revised Code shall be paid to 11177  
the superintendent of financial institutions and shall be 11178  
deposited by the superintendent into the state treasury to the 11179  
credit of the consumer finance fund, which is hereby created. The 11180  
fund may be expended or obligated by the superintendent for the 11181  
defrayment of the costs of administration of Chapters 1321., 11182  
1322., 4712., 4727., and 4728., sections 1315.21 to 1315.30, ~~and~~ 11183  
sections 1315.35 to 1315.44, and sections 1349.25 to 1349.37 of 11184  
the Revised Code by the division of financial institutions. All 11185  
actual and necessary expenses incurred by the superintendent, 11186  
including any services rendered by the department of commerce for 11187  
the division's administration of Chapters 1321., 1322., 4712., 11188  
4727., and 4728., sections 1315.21 to 1315.30, ~~and~~ sections 11189  
1315.35 to 1315.44, and sections 1349.25 to 1349.37 of the Revised 11190  
Code, shall be paid from the fund. The fund shall be assessed a 11191  
proportionate share of the administrative costs of the department 11192  
and the division. The proportionate share of the administrative 11193  
costs of the division of financial institutions shall be 11194  
determined in accordance with procedures prescribed by the 11195  
superintendent and approved by the director of budget and 11196  
management. Such assessment shall be paid from the consumer 11197  
finance fund to the division of administration fund or the 11198

financial institutions fund.	11199
<b>Sec. 1333.99.</b> (A) Whoever violates sections 1333.01 to	11200
1333.04 of the Revised Code is guilty of a minor misdemeanor.	11201
(B) Whoever violates section 1333.12 of the Revised Code is	11202
guilty of a misdemeanor of the fourth degree.	11203
(C) Whoever violates section 1333.36 of the Revised Code is	11204
guilty of a misdemeanor of the third degree.	11205
(D) A prosecuting attorney may file an action to restrain any	11206
person found in violation of section 1333.36 of the Revised Code.	11207
Upon the filing of such an action, the common pleas court may	11208
receive evidence of such violation and forthwith grant a temporary	11209
restraining order as may be prayed for, pending a hearing on the	11210
merits of said cause.	11211
(E) Whoever violates division (A)(1) of section 1333.52 or	11212
section 1333.81 of the Revised Code is guilty of a misdemeanor of	11213
the first degree.	11214
(F) Whoever violates division (A)(2) or (B) of section	11215
1333.52 <del>or division (F) or (H) of section 1333.96</del> of the Revised	11216
Code is guilty of a misdemeanor of the second degree.	11217
(G) Except as otherwise provided in this division, whoever	11218
violates section 1333.92 of the Revised Code is guilty of a	11219
misdemeanor of the first degree. If the value of the compensation	11220
is five hundred dollars or more and less than five thousand	11221
dollars, whoever violates section 1333.92 of the Revised Code is	11222
guilty of a felony of the fifth degree. If the value of the	11223
compensation is five thousand dollars or more and less than one	11224
hundred thousand dollars, whoever violates section 1333.92 of the	11225
Revised Code is guilty of a felony of the fourth degree. If the	11226
value of the compensation is one hundred thousand dollars or more,	11227
whoever violates section 1333.92 of the Revised Code is guilty of	11228

a felony of the third degree. 11229

~~(H) Whoever violates division (B), (C), or (I) of section 1333.96 of the Revised Code is guilty of a misdemeanor of the third degree.~~ 11230  
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~~(I) Any person not registered as a travel agency or tour promoter as provided in divisions (B) and (C) of section 1333.96 of the Revised Code who states that the person is so registered is guilty of a misdemeanor of the first degree.~~ 11233  
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**Sec. 1346.04.** As used in this section and sections 1346.05 to 1346.10 of the Revised Code: 11237  
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(A) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s." "Brand family" includes cigarettes sold under any brand name (whether that name is used alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or other indicia of product identification identical or similar to, or identifiable with, a previous brand of cigarettes. 11239  
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(B) "Cigarette," "Master Settlement Agreement," "qualified escrow fund," "tobacco product manufacturer," and "units sold" have the same meanings as in section 1346.01 of the Revised Code. 11248  
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(C) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer. 11251  
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(D) "Participating manufacturer" means a participating manufacturer as that term is defined in section II(jj) of the Master Settlement Agreement. 11253  
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(E) "Stamping agent" means a person who is authorized to affix tax stamps to packages or other containers of cigarettes under section 5743.03 of the Revised Code or a person who is 11256  
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required to pay the excise tax imposed on cigarettes and other 11259  
tobacco products under sections 5743.03 and 5743.51 of the Revised 11260  
Code. 11261

Sec. 1346.05. (A)(1) Every tobacco product manufacturer whose 11262  
cigarettes are sold in this state either directly or through a 11263  
distributor, retailer, or other intermediary shall execute and 11264  
deliver to the attorney general an annual certification, made 11265  
under penalty of falsification, stating that, as of the date of 11266  
the certification, the tobacco manufacturer is either a 11267  
participating manufacturer or a nonparticipating manufacturer in 11268  
full compliance with section 1346.02 of the Revised Code, 11269  
including full compliance with all quarterly installment payment 11270  
requirements, if required to make such payments by an 11271  
administrative rule adopted by the attorney general. The 11272  
certification shall be on a form prescribed by the attorney 11273  
general and shall be filed not later than the thirtieth day of 11274  
April in each year. 11275

(2) Each participating manufacturer shall include in its 11276  
certification a list of its brand families. Thirty days before 11277  
making any additions to or modifications of its brand families, a 11278  
participating manufacturer shall update its brand family list by 11279  
executing and delivering a supplemental certification to the 11280  
attorney general. 11281

(3) Each nonparticipating manufacturer shall include all of 11282  
the following in its certification: 11283

(a) A list of all of its brand families and the number of 11284  
units sold during the preceding calendar year for each brand 11285  
family, and a list of all of its brand families that have been 11286  
sold in the state at any time during the current calendar year. 11287  
The list shall indicate, by an asterisk, any brand family that was 11288  
sold in the state during the preceding calendar year and that is 11289

no longer being sold in the state as of the date of the 11290  
certification. The list shall identify by name and address any 11291  
other manufacturer in the preceding or current year of the brand 11292  
families included on the list. Thirty days before making any 11293  
additions to or modifications of its brand families, a 11294  
nonparticipating manufacturer shall update its brand family list 11295  
by executing and delivering a supplemental certification to the 11296  
attorney general. 11297

(b) A statement that the nonparticipating manufacturer is 11298  
registered to do business in this state, or has appointed an agent 11299  
for service of process in this state and provided notice of that 11300  
appointment as required by section 1346.06 of the Revised Code; 11301

(c) A certification that the nonparticipating manufacturer 11302  
has established and continues to maintain a qualified escrow fund 11303  
under section 1346.02 of the Revised Code and that the qualified 11304  
escrow fund is governed by a qualified escrow agreement executed 11305  
by the nonparticipating manufacturer and reviewed and approved by 11306  
the attorney general; 11307

(d) All of the following information regarding the qualified 11308  
escrow fund the nonparticipating manufacturer is required to 11309  
establish and maintain under section 1346.02 of the Revised Code 11310  
and the rules adopted under that section: 11311

(i) The name, address, and telephone number of the financial 11312  
institution at which the nonparticipating manufacturer has 11313  
established its qualified escrow fund; 11314

(ii) The account number of the qualified escrow fund and any 11315  
subaccount number for the state; 11316

(iii) The amount that the nonparticipating manufacturer 11317  
deposited in the qualified escrow fund for cigarettes sold in the 11318  
state during the preceding calendar year, the date and amount of 11319  
each deposit, and any evidence or verification the attorney 11320

general deems necessary to confirm those deposits; 11321

(iv) The amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from any qualified escrow fund into which it ever made payments under section 1346.02 of the Revised Code and the rules adopted under that section. 11322  
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(e) A statement that the nonparticipating manufacturer is in full compliance with this section and sections 1346.02, 1346.06, and 1346.07 of the Revised Code and any rules adopted under those sections. 11327  
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(4)(a) No tobacco product manufacturer shall include a brand family in its certification unless either of the following applies: 11331  
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(i) In the case of a participating manufacturer, the participating manufacturer affirms that the cigarettes in the brand family shall be deemed to be its cigarettes for the purpose of calculating its payments under the Master Settlement Agreement for the relevant year in the volume and shares determined pursuant to that agreement. 11334  
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(ii) In the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the cigarettes in the brand family shall be deemed to be its cigarettes for the purpose of section 1346.02 of the Revised Code. 11340  
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(b) Nothing in this section limits or shall be construed to limit the state's authority to determine that the cigarettes in a brand family constitute the cigarettes of another tobacco product manufacturer for the purpose of calculating payments under the Master Settlement Agreement or for the purpose of section 1346.02 of the Revised Code. 11344  
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(5) Each tobacco product manufacturer shall maintain all invoices and documentations of sales and other information relied 11350  
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upon for its certification for a period of at least five years. 11352

(B)(1) Except as otherwise provided in division (B)(3) of 11353  
this section, the attorney general shall develop and publish on 11354  
its web site a directory listing all tobacco product manufacturers 11355  
that have provided current and accurate certifications under 11356  
division (A) of this section and all brand families listed in 11357  
those certifications. 11358

(2)(a) The attorney general shall update the directory as 11359  
necessary to correct mistakes or to add or remove a tobacco 11360  
product manufacturer or brand family to keep the directory in 11361  
conformity with the requirements of this section. At least ten 11362  
days before any tobacco product manufacturer or brand family is 11363  
added to or removed from the directory, the attorney general shall 11364  
publish notice of the pending addition or removal online in the 11365  
directory and shall notify the tax commissioner of those pending 11366  
changes. At least ten days before such addition or removal, the 11367  
tax commissioner shall transmit by electronic mail or other 11368  
practicable means to each stamping agent notice of the pending 11369  
addition or removal. 11370

(b) Unless an agreement between a stamping agent and a 11371  
tobacco product manufacturer provides otherwise, a tobacco product 11372  
manufacturer that is removed from the directory or whose brand 11373  
family is removed from the directory shall refund to the stamping 11374  
agent any money paid by the stamping agent to the tobacco product 11375  
manufacturer for cigarettes of that tobacco product manufacturer 11376  
that are in the possession of the stamping agent at the time the 11377  
stamping agent receives notice of the pending removal of the 11378  
tobacco product manufacturer or a brand family of that tobacco 11379  
product manufacturer from the directory under division (B)(2)(a) 11380  
of this section. 11381

(c) The tax commissioner shall notify the attorney general of 11382  
any tobacco product manufacturer that fails to refund money to a 11383

stamping agent under division (B)(2)(b) of this section. The 11384  
attorney general shall not restore to the directory any tobacco 11385  
product manufacturer or brand family of a tobacco product 11386  
manufacturer until the tobacco product manufacturer has paid the 11387  
stamping agent any required refund. Once a required refund has 11388  
been so paid, the tax commissioner shall notify the attorney 11389  
general of that payment. 11390

(3) The attorney general shall not include or retain in the 11391  
directory a nonparticipating manufacturer or a brand family of a 11392  
nonparticipating manufacturer if any of the following applies: 11393

(a) The nonparticipating manufacturer fails to provide the 11394  
required certification under this section, or the attorney general 11395  
determines that the certification is not in compliance with the 11396  
requirements of this section, unless the attorney general 11397  
determines that the violation has been cured to the attorney 11398  
general's satisfaction. 11399

(b) The attorney general determines that any escrow payment 11400  
required under section 1346.02 of the Revised Code for any period 11401  
for any brand family of the nonparticipating manufacturer, 11402  
regardless of whether the brand family is listed by the 11403  
nonparticipating manufacturer in its certification under this 11404  
section, has not been fully paid into a qualified escrow fund 11405  
governed by a qualified escrow agreement that has been approved by 11406  
the attorney general. 11407

(c) The attorney general determines that the nonparticipating 11408  
manufacturer has not fully satisfied any outstanding final 11409  
judgment, including interest, for a violation of section 1346.02 11410  
of the Revised Code. 11411

(4) Each stamping agent shall provide an electronic mail 11412  
address to the tax commissioner for the purpose of receiving 11413  
notifications under division (B)(2) of this section. As necessary, 11414



each stamping agent shall update the agent's electronic mail address with the tax commissioner. 11415  
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(C)(1) No person shall do any of the following: 11417

(a) Affix a tax stamp to a package or other container of cigarettes of a tobacco product manufacturer or a brand family that is not included in the directory; 11418  
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(b) Sell, offer for sale, or possess for sale in this state cigarettes of a tobacco product manufacturer or a brand family that is not included in the directory; 11421  
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(c) Sell or distribute cigarettes that have had a tax stamp affixed while the tobacco product manufacturer or brand family of those cigarettes was not included in the directory; 11424  
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(d) Acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in this state and that have had a tax stamp affixed while the tobacco product manufacturer or brand family of those cigarettes was not included in the directory; 11427  
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(e) Acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in this state and that are the cigarettes of a tobacco product manufacturer or a brand family that is not included in the directory. 11433  
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(2) Except as otherwise provided in this division, a violation of division (C)(1) of this section is a misdemeanor of the first degree. If the offender has a previous conviction for a violation of that division, a violation of division (C)(1) of this section is a felony of the fourth degree. 11438  
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(3) Any cigarettes sold, offered for sale, or possessed for sale in violation of division (C)(1) of this section shall be 11443  
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considered contraband under section 5743.21 of the Revised Code, 11445  
and those cigarettes shall be subject to seizure and forfeiture 11446  
under that section. Cigarettes so seized and forfeited shall not 11447  
be resold and shall be destroyed. 11448

**Sec. 1346.06.** (A)(1) Any nonresident or foreign 11449  
nonparticipating manufacturer that has not registered to do 11450  
business in the state as a foreign corporation or business entity, 11451  
as a condition precedent to having its brand families included or 11452  
retained in the directory developed and published by the attorney 11453  
general under section 1346.05 of the Revised Code, shall appoint, 11454  
and continually engage without interruption the services of, an 11455  
agent in the state to act as agent for the service, in any manner 11456  
authorized by law, of all process pertaining to any action or 11457  
proceeding in the courts of this state against the manufacturer 11458  
concerning or arising out of the enforcement of this chapter. 11459

(2) Service on a nonparticipating manufacturer's agent shall 11460  
constitute legal and valid service of process on the manufacturer. 11461

(3) A nonparticipating manufacturer shall provide the 11462  
attorney general, to the satisfaction of the attorney general, 11463  
with proof of the appointment of, and notice of the name, address, 11464  
telephone number, and availability of, the manufacturer's agent. 11465

(B)(1) If a nonparticipating manufacturer decides to 11466  
terminate its agent's appointment, the manufacturer shall provide 11467  
notice of the termination to the attorney general thirty calendar 11468  
days prior to the termination and shall provide proof, to the 11469  
satisfaction of the attorney general, of the appointment of a new 11470  
agent not less than five calendar days prior to the termination. 11471

(2) If a nonparticipating manufacturer's agent terminates the 11472  
agent's appointment, the manufacturer shall provide notice of the 11473  
termination to the attorney general and include proof, to the 11474  
satisfaction of the attorney general, of the appointment of a new 11475

agent within five calendar days of the termination. 11476

(C)(1) Any nonparticipating manufacturer whose cigarettes are 11477  
sold in the state and who has not appointed and continually 11478  
engaged an agent in accordance with divisions (A) and (B) of this 11479  
section shall be deemed to have appointed the secretary of state 11480  
as the manufacturer's agent and may be proceeded against in any 11481  
action or proceeding in the courts of the state described in 11482  
division (A) of this section by service of process on the 11483  
secretary of state. 11484

(2) The deemed appointment of the secretary of state as a 11485  
nonparticipating manufacturer's agent does not satisfy the 11486  
requirements of divisions (A)(3)(b) and (B)(1) of section 1346.05 11487  
of the Revised Code that a nonparticipating manufacturer that has 11488  
not registered to do business in the state shall appoint an agent 11489  
for service of process as a condition precedent to the existence 11490  
of an accurate certification permitting the manufacturer's brand 11491  
families to be included or retained in the directory. 11492

**Sec. 1346.07.** (A) Not later than the last day of each month 11493  
or less frequently if so directed by the tax commissioner, each 11494  
stamping agent shall submit information for the previous month or 11495  
for the relevant time period, if directed by the tax commissioner 11496  
to make the submission less frequently, which the tax commissioner 11497  
requires to facilitate compliance with sections 1346.05 to 1346.10 11498  
of the Revised Code. The information shall include, but is not 11499  
limited to, a list by brand family of the total number of 11500  
cigarettes, or, in the case of roll-your-own, the equivalent stick 11501  
count, for which the stamping agent during the previous calendar 11502  
quarter affixed stamps or otherwise paid the tax due. 11503

The stamping agent shall maintain and make available to the 11504  
tax commissioner all invoices and documentations of sales of all 11505  
nonparticipating manufacturer cigarettes and any other information 11506

the agent relies upon in submitting information under this 11507  
division to the tax commissioner. This duty shall be for a period 11508  
of five years from the date of each submission of information 11509  
under this division. 11510

(B) The attorney general at any time may require a 11511  
nonparticipating manufacturer to provide proof, from the financial 11512  
institution in which the manufacturer has established a qualified 11513  
escrow fund under section 1346.02 of the Revised Code, of the 11514  
amount of money in the fund, exclusive of interest, the amount and 11515  
date of each deposit in the fund, and the amount and date of each 11516  
withdrawal from the fund. 11517

(C) In addition to the information required to be submitted 11518  
or provided to the tax commissioner and the attorney general under 11519  
divisions (A) and (B) of this section, the attorney general may 11520  
require a stamping agent or tobacco product manufacturer to submit 11521  
any additional information necessary to enable the attorney 11522  
general to determine whether a manufacturer is in compliance with 11523  
sections 1346.05 to 1346.10 of the Revised Code. The information 11524  
shall include, but is not limited to, samples of the packaging or 11525  
labeling of each brand family. 11526

(D) The tax commissioner and the attorney general shall share 11527  
information received under sections 1346.05 to 1346.10 of the 11528  
Revised Code for purposes of determining compliance with and 11529  
enforcement of those sections. The tax commissioner and the 11530  
attorney general also may share information received under these 11531  
sections with federal, state, or local agencies for purposes of 11532  
the enforcement of this chapter or corresponding laws of other 11533  
states. 11534

**Sec. 1346.08.** (A) The tax commissioner and the attorney 11535  
general may adopt administrative rules necessary to implement 11536  
sections 1346.05 to 1346.10 of the Revised Code. 11537

(B) Subject to the requirements of section 1346.05 of the Revised Code, the attorney general may adopt an administrative rule requiring a tobacco product manufacturer to make required escrow deposits in quarterly installments during the year in which the sales covered by the deposits are made. If the attorney general adopts such a rule, the tax commissioner may require a tobacco product manufacturer to produce information sufficient to enable the tax commissioner and the attorney general to determine the adequacy of the amount of an installment deposit. 11538  
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**Sec. 1346.09.** (A) The attorney general, on behalf of the tax commissioner, may seek an injunction to restrain a threatened or actual violation of division (C)(1) of section 1346.05 of the Revised Code or division (A) or (C) of section 1346.07 of the Revised Code by a stamping agent and to compel the stamping agent to comply with those divisions. 11547  
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(B) In any action brought by the state to enforce sections 1346.05 to 1346.10 of the Revised Code, the state shall be entitled to recover the costs of the investigation, expert witness fees, court costs, and reasonable attorney's fees. 11553  
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(C) If a court determines that a person has violated any prohibition or other provision of sections 1346.05 to 1346.10 of the Revised Code, the court shall order that the person's profits, gain, gross receipts, or other benefit from the violation be disgorged and paid to the general revenue fund of the state. 11557  
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(D) Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of the state. 11562  
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**Sec. 1346.10.** (A) In lieu of or in addition to any other remedy provided by law, upon a determination that a stamping agent 11566  
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has violated division (C)(1) of section 1346.05 of the Revised Code or any administrative rule adopted under sections 1346.05 to 1346.10 of the Revised Code, the tax commissioner may revoke the license of the stamping agent in the manner provided by section 5743.18 of the Revised Code. 11568  
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(B) For each violation of division (C)(1) of section 1346.05 of the Revised Code, in addition to any other penalty provided by law, the tax commissioner may impose a fine in an amount not to exceed the greater of five hundred per cent of the retail value of the cigarettes involved or five thousand dollars. The fine shall be imposed in the manner provided by section 5743.081 of the Revised Code. 11573  
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For the purpose of this division, each stamp affixed to a package of cigarettes and each sale or offer for sale of cigarettes in violation of division (C)(1) of section 1346.05 of the Revised Code shall constitute a separate violation. 11580  
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**Sec. 1501.04.** There is hereby created in the department of natural resources a recreation and resources commission composed of the ~~chairman~~ chairperson of the wildlife council created under section 1531.03 of the Revised Code, the ~~chairman~~ chairperson of the parks and recreation council created under section 1541.40 of the Revised Code, the ~~chairman~~ chairperson of the waterways safety council created under section 1547.73 of the Revised Code, the ~~chairman~~ chairperson of the technical advisory council on oil and gas created under section 1509.38 of the Revised Code, the chairman of the forestry advisory council created under section 1503.40 of the Revised Code, the ~~chairman~~ chairperson of the Ohio soil and water conservation commission created under section 1515.02 of the Revised Code, the ~~chairman~~ chairperson of the Ohio natural areas council created under section 1517.03 of the Revised Code, the ~~chairman~~ chairperson of the Ohio water advisory council 11584  
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created under section 1521.031 of the Revised Code, the 11599  
chairperson of the recycling and litter prevention advisory 11600  
council created under section 1502.04 of the Revised Code, ~~the~~ 11601  
~~chairperson of the civilian conservation advisory council created~~ 11602  
~~under section 1553.10 of the Revised Code, the chairman~~ 11603  
chairperson of the Ohio geology advisory council created under 11604  
section 1505.11 of the Revised Code, and five members appointed by 11605  
the governor with the advice and consent of the senate, not more 11606  
than three of whom shall belong to the same political party. The 11607  
director of natural resources shall be an ex officio member of the 11608  
commission, with a voice in its deliberations, but without the 11609  
power to vote. 11610

Terms of office of members of the commission appointed by the 11611  
governor shall be for five years, commencing on the second day of 11612  
February and ending on the first day of February. Each member 11613  
shall hold office from the date of ~~his~~ appointment until the end 11614  
of the term for which ~~he~~ the member was appointed. 11615

In the event of the death, removal, resignation, or 11616  
incapacity of a member of the commission, the governor, with the 11617  
advice and consent of the senate, shall appoint a successor who 11618  
shall hold office for the remainder of the term for which ~~his~~ the 11619  
member's predecessor was appointed. Any member shall continue in 11620  
office subsequent to the expiration date of ~~his~~ the member's term 11621  
until ~~his~~ the member's successor takes office, or until a period 11622  
of sixty days has elapsed, whichever occurs first. 11623

The governor may remove any appointed member of the 11624  
commission for misfeasance, nonfeasance, or malfeasance in office. 11625

The commission shall exercise no administrative function, but 11626  
may: 11627

(A) Advise with and recommend to the director ~~of natural~~ 11628  
~~resources~~ as to plans and programs for the management, 11629

development, utilization, and conservation of the natural 11630  
resources of the state; 11631

(B) Advise with and recommend to the director as to methods 11632  
of coordinating the work of the divisions of the department; 11633

(C) Consider and make recommendations upon any matter ~~which~~ 11634  
that the director may submit to it; 11635

(D) Submit to the governor biennially recommendations for 11636  
amendments to the conservation laws of the state. 11637

~~Before~~ Each member of the commission, before entering upon 11638  
the discharge of ~~his~~ the member's duties, ~~each member of the~~ 11639  
~~commission~~ shall take and subscribe to an oath of office, which 11640  
oath, in writing, shall be filed in the office of the secretary of 11641  
state. 11642

The members of the commission shall serve without 11643  
compensation, but shall be entitled to receive their actual and 11644  
necessary expenses incurred in the performance of their official 11645  
duties. 11646

The commission, by a majority vote of all its members, shall 11647  
adopt and amend bylaws. 11648

To be eligible for appointment, a person shall be a citizen 11649  
of the United States and an elector of the state and shall possess 11650  
a knowledge of and have an interest in the natural resources of 11651  
this state. 11652

The commission shall hold at least four regular quarterly 11653  
meetings each year. Special meetings shall be held at such times 11654  
as the bylaws of the commission provide. Notices of all meetings 11655  
shall be given in such manner as the bylaws provide. The 11656  
commission shall choose annually from among its members a ~~chairman~~ 11657  
chairperson to preside over its meetings and a secretary to keep a 11658  
record of its proceedings. A majority of the members of the 11659



commission constitutes a quorum. No advice shall be given or 11660  
recommendation made without a majority of the members of the 11661  
commission concurring therein. 11662

Sec. 1501.25. (A) There is hereby created the Muskingum river 11663  
advisory council consisting of the following members: 11664

(1) Two members of the house of representatives, one from 11665  
each party to be appointed by the speaker of the house of 11666  
representatives after conferring with the minority leader of the 11667  
house, and two members of the senate, one from each party to be 11668  
appointed by the president of the senate after conferring with the 11669  
minority leader of the senate; 11670

(2) Four persons interested in the development of 11671  
recreational and commercial uses of the Muskingum river, to be 11672  
appointed by the governor; 11673

(3) Two representatives of the department of natural 11674  
resources to be appointed by the director of natural resources, 11675  
one representative of the department of development to be 11676  
appointed by the director of development, one representative of 11677  
the environmental protection agency to be appointed by the 11678  
director of environmental protection, one representative of the 11679  
department of transportation to be appointed by the director of 11680  
transportation, and one representative of the Ohio historical 11681  
society to be appointed by the director of the society; 11682

(4) Twelve persons to be appointed from the four counties 11683  
through which the Muskingum river flows, who shall be appointed in 11684  
the following manner. The board of county commissioners of 11685  
Coshocton county shall appoint two members, and the mayor of the 11686  
city of Coshocton shall appoint one member. The board of county 11687  
commissioners of Muskingum county shall appoint two members, and 11688  
the mayor of the city of Zanesville shall appoint one member. The 11689  
board of county commissioners of Morgan county shall appoint two 11690

members, and the mayor of the city of McConelsville shall appoint 11691  
one member. The board of county commissioners of Washington county 11692  
shall appoint two members, and the mayor of the city of Marietta 11693  
shall appoint one member. 11694

(5) One member representing the Muskingum watershed 11695  
conservancy district, to be appointed by the board of directors of 11696  
the district. 11697

Members shall serve at the pleasure of their appointing 11698  
authority. Vacancies shall be filled in the manner of the original 11699  
appointment. 11700

The council biennially shall elect from among its members a 11701  
chairperson and a vice-chairperson. One of the representatives of 11702  
the department of natural resources shall serve as secretary of 11703  
the council unless a majority of the members elect another member 11704  
to that position. The council shall meet at least once each year 11705  
for the purpose of taking testimony from residents of the 11706  
Muskingum river area, users of the river and adjacent lands, and 11707  
the general public and may hold additional meetings at the call of 11708  
the chairperson. 11709

The chairperson may appoint members of the council and other 11710  
persons to committees and study groups as needed. 11711

The council shall submit an annual report to the general 11712  
assembly, the governor, and the director of natural resources. The 11713  
report shall include, without limitation, a description of the 11714  
conditions of the Muskingum river area, a discussion of the 11715  
council's activities, any recommendations for actions by the 11716  
general assembly or any state agency that the council determines 11717  
are needed, and estimates of the costs of those recommendations. 11718

The department of natural resources shall provide staff 11719  
assistance to the council as needed. 11720

(B) The council may do any of the following: 11721

(1) Provide coordination among political subdivisions, state agencies, and federal agencies involved in dredging, debris removal or disposal, and recreational, commercial, tourism, and economic development; 11722  
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(2) Provide aid to civic groups and individuals who want to make improvements to the Muskingum river if the council determines that the improvements would be beneficial to the residents of the area and to the state; 11726  
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(3) Provide information and planning aid to state and local agencies responsible for historic, commercial, and recreational development of the Muskingum river area, including, without limitation, suggestions as to priorities for pending Muskingum river projects of the department of natural resources; 11730  
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(4) Provide updated information to the United States army corps of engineers, the department of natural resources, and the Muskingum conservancy district established under Chapter 6101. of the Revised Code concerning potential hazards to flood control or navigation, erosion problems, debris accumulation, and deterioration of locks or dams. 11735  
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**Sec. 1503.05.** (A) The chief of the division of forestry may sell timber and other forest products from the state forest and state forest nurseries whenever the chief considers such a sale desirable and, with the approval of the attorney general and the director of natural resources, may sell portions of the state forest lands when such a sale is advantageous to the state. 11741  
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(B) Except as otherwise provided in this section, a timber sale agreement shall not be executed unless the person or governmental entity bidding on the sale executes and files a surety bond conditioned on completion of the timber sale in accordance with the terms of the agreement in an amount equal to 11747  
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twenty-five per cent of the highest value cutting section. All 11752  
bonds shall be given in a form prescribed by the chief and shall 11753  
run to the state as obligee. 11754

The chief shall not approve any bond until it is personally 11755  
signed and acknowledged by both principal and surety, or as to 11756  
either by the attorney in fact thereof, with a certified copy of 11757  
the power of attorney attached. The chief shall not approve the 11758  
bond unless there is attached a certificate of the superintendent 11759  
of insurance that the company is authorized to transact a fidelity 11760  
and surety business in this state. 11761

In lieu of a bond, the bidder may deposit any of the 11762  
following: 11763

(1) Cash in an amount equal to the amount of the bond; 11764

(2) United States government securities having a par value 11765  
equal to or greater than the amount of the bond; 11766

(3) Negotiable certificates of deposit or irrevocable letters 11767  
of credit issued by any bank organized or transacting business in 11768  
this state having a par value equal to or greater than the amount 11769  
of the bond. 11770

The cash or securities shall be deposited on the same terms 11771  
as bonds. If one or more certificates of deposit are deposited in 11772  
lieu of a bond, the chief shall require the bank that issued any 11773  
of the certificates to pledge securities of the aggregate market 11774  
value equal to the amount of the certificate or certificates that 11775  
is in excess of the amount insured by the federal deposit 11776  
insurance corporation. The securities to be pledged shall be those 11777  
designated as eligible under section 135.18 of the Revised Code. 11778  
The securities shall be security for the repayment of the 11779  
certificate or certificates of deposit. 11780

Immediately upon a deposit of cash, securities, certificates 11781  
of deposit, or letters of credit, the chief shall deliver them to 11782

the treasurer of state, who shall hold them in trust for the 11783  
purposes for which they have been deposited. The treasurer of 11784  
state is responsible for the safekeeping of the deposits. A bidder 11785  
making a deposit of cash, securities, certificates of deposit, or 11786  
letters of credit may withdraw and receive from the treasurer of 11787  
state, on the written order of the chief, all or any portion of 11788  
the cash, securities, certificates of deposit, or letters of 11789  
credit upon depositing with the treasurer of state cash, other 11790  
United States government securities, or other negotiable 11791  
certificates of deposit or irrevocable letters of credit issued by 11792  
any bank organized or transacting business in this state, equal in 11793  
par value to the par value of the cash, securities, certificates 11794  
of deposit, or letters of credit withdrawn. 11795

A bidder may demand and receive from the treasurer of state 11796  
all interest or other income from any such securities or 11797  
certificates as it becomes due. If securities so deposited with 11798  
and in the possession of the treasurer of state mature or are 11799  
called for payment by their issuer, the treasurer of state, at the 11800  
request of the bidder who deposited them, shall convert the 11801  
proceeds of the redemption or payment of the securities into other 11802  
United States government securities, negotiable certificates of 11803  
deposit, or cash as the bidder designates. 11804

When the chief finds that a person or governmental agency has 11805  
failed to comply with the conditions of the person's or 11806  
governmental agency's bond, the chief shall make a finding of that 11807  
fact and declare the bond, cash, securities, certificates, or 11808  
letters of credit forfeited. The chief thereupon shall certify the 11809  
total forfeiture to the attorney general, who shall proceed to 11810  
collect the amount of the bond, cash, securities, certificates, or 11811  
letters of credit. 11812

In lieu of total forfeiture, the surety, at its option, may 11813  
cause the timber sale to be completed or pay to the treasurer of 11814

state the cost thereof. 11815

All moneys collected as a result of forfeitures of bonds, 11816  
cash, securities, certificates, and letters of credit under this 11817  
section shall be credited to the state forest fund created in this 11818  
section. 11819

(C) The chief may grant easements and leases on portions of 11820  
the state forest lands and state forest nurseries under terms that 11821  
are advantageous to the state, and the chief may grant mineral 11822  
rights on a royalty basis on those lands and nurseries, with the 11823  
approval of the attorney general and the director. 11824

(D) All moneys received from the sale of state forest lands, 11825  
or in payment for easements or leases on or as rents from those 11826  
lands or from state forest nurseries, shall be paid into the state 11827  
treasury to the credit of the state forest fund, which is hereby 11828  
created. All moneys received from the sale of standing timber 11829  
taken from the state forest lands shall be deposited into the 11830  
state treasury. Twenty-five per cent of the moneys so deposited 11831  
shall be credited to the state forest fund. Seventy-five per cent 11832  
of the moneys so deposited shall be credited to the general 11833  
revenue fund. All moneys received from the sale of forest 11834  
products, other than standing timber, and minerals taken from the 11835  
state forest lands and state forest nurseries, together with 11836  
royalties from mineral rights, shall be paid into the state 11837  
treasury to the credit of the state forest fund. 11838

At the time of making such a ~~payment or deposit~~ into the 11839  
state treasury to the credit of the general revenue fund, the 11840  
chief shall determine the amount and ~~gross~~ net value of all such 11841  
~~products~~ standing timber sold ~~or royalties received~~ from lands and 11842  
nurseries in each county, in each township within the county, and 11843  
in each school district within the county. Afterward the chief 11844  
shall send to each county treasurer a copy of the determination 11845  
and shall provide for payment to the county treasurer, for the use 11846

of the general fund of that county from the amount so received as 11847  
provided in this division, an amount equal to ~~eighty~~ sixty-five 11848  
per cent of the ~~gross~~ net value of the ~~products~~ standing timber 11849  
sold ~~or royalties received~~ from lands and nurseries located in 11850  
that county. The county auditor shall do all of the following: 11851

(1) Retain for the use of the general fund of the county 11852  
one-fourth of the amount received by the county under division (D) 11853  
of this section; 11854

(2) Pay into the general fund of any township located within 11855  
the county and containing such lands and nurseries one-fourth of 11856  
the amount received by the county from ~~products~~ standing timber 11857  
sold ~~or royalties received~~ from lands and nurseries located in the 11858  
township; 11859

(3) Request the board of education of any school district 11860  
located within the county and containing such lands and nurseries 11861  
to identify which fund or funds of the district should receive the 11862  
moneys available to the school district under division (D)(3) of 11863  
this section. After receiving notice from the board, the county 11864  
auditor shall pay into the fund or funds so identified one-half of 11865  
the amount received by the county from ~~products~~ standing timber 11866  
sold ~~or royalties received~~ from lands and nurseries located in the 11867  
school district, distributed proportionately as identified by the 11868  
board. 11869

The division of forestry shall not supply logs, lumber, or 11870  
other forest products or minerals, taken from the state forest 11871  
lands or state forest nurseries, to any other agency or 11872  
subdivision of the state unless payment is made therefor in the 11873  
amount of the actual prevailing value thereof. This section is 11874  
applicable to the moneys so received. All moneys received from the 11875  
sale of reforestation tree stock or other revenues derived from 11876  
the operation of the state forests, facilities, or equipment shall 11877  
be paid into the state forest fund. 11878

The fund shall not be expended for any purpose other than the administration, operation, maintenance, development, or utilization of the state forests, forest nurseries, and forest programs, for facilities or equipment incident to them, or for the further purchase of lands for state forest or forest nursery purposes.

**Sec. 1513.05.** There is hereby created a reclamation commission consisting of seven members appointed by the governor with the advice and consent of the senate. For the purposes of hearing appeals under section 1513.13 of the Revised Code that involve mine safety issues, the reclamation commission shall consist of two additional members appointed specifically for that function by the governor with the advice and consent of the senate. All terms of office shall be for five years, commencing on the twenty-ninth day of June and ending on the twenty-eighth day of June. Each member shall hold office from the date of appointment until the end of the term for which the appointment was made. Each vacancy occurring on the commission shall be filled by appointment within sixty days after the vacancy occurs. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

Two of the appointees to the commission shall be persons who, at the time of their appointment, own and operate a farm or are retired farmers. Notwithstanding section 1513.04 of the Revised Code, one of the appointees to the commission shall be a person who, at the time of appointment, is the representative of an operator of a coal mine. One of the appointees to the commission



shall be a person who, by reason of the person's previous 11910  
vocation, employment, or affiliations, can be classed as a 11911  
representative of the public. One of the appointees to the 11912  
commission shall be a person who, by reason of previous training 11913  
and experience, can be classed as one learned and experienced in 11914  
modern forestry practices. One of the appointees to the commission 11915  
shall be a person who, by reason of previous training and 11916  
experience, can be classed as one learned and experienced in 11917  
agronomy. One of the appointees to the commission shall be either 11918  
a person who, by reason of previous training and experience, can 11919  
be classed as one capable and experienced in earth-grading 11920  
problems, or a civil engineer. Beginning not later than five years 11921  
after the effective date of this amendment, at least one of the 11922  
seven appointees to the commission shall be an attorney at law who 11923  
is admitted to practice in this state and is familiar with mining 11924  
issues. Not more than four members shall be members of the same 11925  
political party. 11926

The two additional members of the commission who are 11927  
appointed specifically to hear appeals that involve mine safety 11928  
issues shall be individuals who, because of previous vocation, 11929  
employment, or affiliation, can be classified as representatives 11930  
of employees currently engaged in mining operations. One shall be 11931  
a representative of coal miners, and one shall be a representative 11932  
of aggregates miners. Prior to making the appointment, the 11933  
governor shall request the highest ranking officer in the major 11934  
employee organization representing coal miners in this state to 11935  
submit to the governor the names and qualifications of three 11936  
nominees and shall request the highest ranking officer in the 11937  
major employee organization representing aggregates miners in this 11938  
state to do the same. The governor shall appoint one person 11939  
nominated by each organization to the commission. The nominees 11940  
shall have not less than five years of practical experience in 11941  
dealing with mine health and safety issues and at the time of the 11942

nomination shall be employed in positions that involve the 11943  
protection of the health and safety of miners. The major employee 11944  
organization representing coal miners and the major employee 11945  
organization representing aggregates miners shall represent a 11946  
membership consisting of the largest number of coal miners and 11947  
aggregates miners, respectively, in this state compared to other 11948  
employee organizations in the year prior to the year in which the 11949  
appointments are made. 11950

When the commission hears an appeal that involves a coal 11951  
mining safety issue, one of the commission members who owns and 11952  
operates a farm or is a retired farmer shall be replaced by the 11953  
additional member who is a representative of coal miners. When the 11954  
commission hears an appeal that involves an aggregates mining 11955  
safety issue, one of the commission members who owns and operates 11956  
a farm or is a retired farmer shall be replaced by the additional 11957  
member who is a representative of aggregates miners. Neither of 11958  
the additional members who are appointed specifically to hear 11959  
appeals that involve mine safety issues shall be considered to be 11960  
members of the commission for any other purpose, and they shall 11961  
not participate in any other matters that come before the 11962  
commission. 11963

The commission may appoint a secretary to hold office at its 11964  
pleasure. A commission member may serve as secretary. The 11965  
secretary shall perform such duties as the commission prescribes, 11966  
and shall receive such compensation as the commission fixes in 11967  
accordance with such schedules as are provided by law for the 11968  
compensation of state employees. 11969

The commission shall appoint one or more hearing officers who 11970  
shall be attorneys at law admitted to practice in this state to 11971  
conduct hearings under this chapter. 11972

Four members constitute a quorum, and no action of the 11973  
commission shall be valid unless it has the concurrence of at 11974

least four members. The commission shall keep a record of its proceedings. 11975  
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Each member shall be paid as compensation for work as a member one hundred fifty dollars per day when actually engaged in the performance of work as a member and when engaged in travel necessary in connection with such work. In addition to such compensation each member shall be reimbursed for all traveling, hotel, and other expenses, in accordance with the current travel rules of the office of budget and management, necessarily incurred in the performance of the member's work as a member. 11977  
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Annually one member shall be elected as chairperson and another member shall be elected as vice-chairperson for terms of one year. 11985  
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The governor may remove any member of the commission from office for inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance, after delivering to the member the charges against the member in writing with at least ten days' written notice of the time and place at which the governor will publicly hear the member, either in person or by counsel, in defense of the charges against the member. If the member is removed from office, the governor shall file in the office of the secretary of state a complete statement of the charges made against the member and a complete report of the proceedings. The action of the governor removing a member from office is final. 11988  
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The commission shall adopt rules governing procedure of appeals under section 1513.13 of the Revised Code and may, for its own internal management, adopt rules that do not affect private rights. 11999  
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**Sec. 1515.08.** The supervisors of a soil and water conservation district have the following powers in addition to their other powers: 12003  
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(A) To conduct surveys, investigations, and research relating 12006  
to the character of soil erosion, floodwater and sediment damages, 12007  
and the preventive and control measures and works of improvement 12008  
for flood prevention and the conservation, development, 12009  
utilization, and disposal of water needed within the district, and 12010  
to publish the results of those surveys, investigations, or 12011  
research, provided that no district shall initiate any research 12012  
program except in cooperation or after consultation with the Ohio 12013  
agricultural research and development center; 12014

(B) To develop plans for the conservation of soil resources, 12015  
for the control and prevention of soil erosion, and for works of 12016  
improvement for flood prevention and the conservation, 12017  
development, utilization, and disposal of water within the 12018  
district, and to publish those plans and information; 12019

(C) To implement, construct, repair, maintain, and operate 12020  
preventive and control measures and other works of improvement for 12021  
natural resource conservation and development and flood 12022  
prevention, and the conservation, development, utilization, and 12023  
disposal of water within the district on lands owned or controlled 12024  
by this state or any of its agencies and on any other lands within 12025  
the district, which works may include any facilities authorized 12026  
under state or federal programs, and to acquire, by purchase or 12027  
gift, to hold, encumber, or dispose of, and to lease real and 12028  
personal property or interests in such property for those 12029  
purposes; 12030

(D) To cooperate or enter into agreements with any occupier 12031  
of lands within the district in the carrying on of natural 12032  
resource conservation operations and works of improvement for 12033  
flood prevention and the conservation, development, utilization, 12034  
and management of natural resources within the district, subject 12035  
to such conditions as the supervisors consider necessary; 12036

(E) To accept donations, gifts, grants, and contributions in money, service, materials, or otherwise, and to use or expend them according to their terms;

(F) To adopt, amend, and rescind rules to carry into effect the purposes and powers of the district;

(G) To sue and plead in the name of the district, and be sued and impleaded in the name of the district, with respect to its contracts and, as indicated in section 1515.081 of the Revised Code, certain torts of its officers, employees, or agents acting within the scope of their employment or official responsibilities, or with respect to the enforcement of its obligations and covenants made under this chapter;

(H) To make and enter into all contracts, leases, and agreements and execute all instruments necessary or incidental to the performance of the duties and the execution of the powers of the district under this chapter, provided that all of the following apply:

(1) Except as provided in section 307.86 of the Revised Code regarding expenditures by boards of county commissioners, when the cost under any such contract, lease, or agreement, other than compensation for personal services or rental of office space, involves an expenditure of more than the amount established in that section regarding expenditures by boards of county commissioners, the supervisors shall make a written contract with the lowest and best bidder after advertisement, for not less than two nor more than four consecutive weeks preceding the day of the opening of bids, in a newspaper of general circulation within the district and in such other publications as the supervisors determine. The notice shall state the general character of the work and materials to be furnished, the place where plans and specifications may be examined, and the time and place of

receiving bids. 12068

(2) Each bid for a contract shall contain the full name of 12069  
every person interested in it. 12070

(3) Each bid for a contract for the construction, demolition, 12071  
alteration, repair, or reconstruction of an improvement shall meet 12072  
the requirements of section 153.54 of the Revised Code. 12073

(4) Each bid for a contract, other than a contract for the 12074  
construction, demolition, alteration, repair, or reconstruction of 12075  
an improvement, at the discretion of the supervisors, may be 12076  
accompanied by a bond or certified check on a solvent bank in an 12077  
amount not to exceed five per cent of the bid, conditioned that, 12078  
if the bid is accepted, a contract shall be entered into. 12079

(5) The supervisors may reject any and all bids. 12080

(I) To make agreements with the department of natural 12081  
resources giving it control over lands of the district for the 12082  
purpose of construction of improvements by the department under 12083  
section 1501.011 of the Revised Code; 12084

(J) To charge, alter, and collect rentals and other charges 12085  
for the use or services of any works of the district; 12086

(K) To enter, either in person or by designated 12087  
representatives, upon lands, private or public, in the necessary 12088  
discharge of their duties; 12089

(L) To enter into agreements or contracts with the department 12090  
for the determination, implementation, inspection, and funding of 12091  
agricultural pollution abatement and urban sediment pollution 12092  
abatement measures whereby landowners, operators, managers, and 12093  
developers may meet adopted state standards for a quality 12094  
environment, except that failure of a district board of 12095  
supervisors to negotiate an agreement or contract with the 12096  
department shall authorize the division of soil and water 12097

conservation to implement the required program;	12098
(M) To conduct demonstrations and provide information to the public regarding practices and methods for natural resource conservation, development, and utilization;	12099 12100 12101
(N) Until June 1, 1996, to conduct surveys and investigations relating to the incidence of the multiflora rose within the district and of the nature and extent of the adverse effects of the multiflora rose on agriculture, forestry, recreation, and other beneficial land uses;	12102 12103 12104 12105 12106
(O) Until June 1, 1996, to develop plans for the control of the multiflora rose within the district and to publish those plans and information related to control of the multiflora rose;	12107 12108 12109
(P) Until June 1, 1996, to enter into contracts or agreements with the chief of the division of soil and water conservation to implement and administer a program for control of the multiflora rose and to receive and expend funds provided by the chief for that purpose;	12110 12111 12112 12113 12114
(Q) Until June 1, 1996, to enter into cost-sharing agreements with landowners for control of the multiflora rose. Before entering into any such agreement, the board of supervisors shall determine that the landowner's application meets the eligibility criteria established under division (E)(6) of section 1511.02 of the Revised Code. The cost-sharing agreements shall contain the contract provisions required by the rules adopted under that division and such other provisions as the board of supervisors considers appropriate to ensure effective control of the multiflora rose.	12115 12116 12117 12118 12119 12120 12121 12122 12123 12124
(R) To enter into contracts or agreements with the chief to implement and administer a program for urban sediment pollution abatement and to receive and expend moneys provided by the chief for that purpose;	12125 12126 12127 12128

(S) To develop operation and management plans, as defined in 12129  
section 1511.01 of the Revised Code, as necessary; 12130

(T) To determine whether operation and management plans 12131  
developed under division (A) of section 1511.021 of the Revised 12132  
Code comply with the standards established under division (E)(1) 12133  
of section 1511.02 of the Revised Code and to approve or 12134  
disapprove the plans, based on such compliance. If an operation 12135  
and management plan is disapproved, the board shall provide a 12136  
written explanation to the person who submitted the plan. The 12137  
person may appeal the plan disapproval to the chief, who shall 12138  
afford the person a hearing. Following the hearing, the chief 12139  
shall uphold the plan disapproval or reverse it. If the chief 12140  
reverses the plan disapproval, the plan shall be deemed approved 12141  
under this division. In the event that any person operating or 12142  
owning agricultural land or a concentrated animal feeding 12143  
operation in accordance with an approved operation and management 12144  
plan who, in good faith, is following that plan, causes 12145  
agricultural pollution, the plan shall be revised in a fashion 12146  
necessary to mitigate the agricultural pollution, as determined 12147  
and approved by the board of supervisors of the soil and water 12148  
conservation district. 12149

(U) With regard to composting conducted in conjunction with 12150  
agricultural operations, to do all of the following: 12151

(1) Upon request or upon their own initiative, inspect 12152  
composting at any such operation to determine whether the 12153  
composting is being conducted in accordance with section 1511.022 12154  
of the Revised Code; 12155

(2) If the board determines that composting is not being so 12156  
conducted, request the chief to issue an order under division (G) 12157  
of section 1511.02 of the Revised Code requiring the person who is 12158  
conducting the composting to prepare a composting plan in 12159



accordance with rules adopted under division (E)(10)(c) of that 12160  
section and to operate in accordance with that plan or to operate 12161  
in accordance with a previously prepared plan, as applicable; 12162

(3) In accordance with rules adopted under division 12163  
(E)(10)(c) of section 1511.02 of the Revised Code, review and 12164  
approve or disapprove any such composting plan. If a plan is 12165  
disapproved, the board shall provide a written explanation to the 12166  
person who submitted the plan. 12167

As used in division (U) of this section, "composting" has the 12168  
same meaning as in section 1511.01 of the Revised Code. 12169

(V) With regard to conservation activities that are conducted 12170  
in conjunction with agricultural operations, to assist the county 12171  
auditor, upon request, in determining whether a conservation 12172  
activity is a conservation practice for purposes of Chapter 929. 12173  
or sections 5713.30 to 5713.37 and 5715.01 of the Revised Code. 12174

As used in this division, "conservation practice" has the 12175  
same meaning as in section 5713.30 of the Revised Code. 12176

(W) To do all acts necessary or proper to carry out the 12177  
powers granted in this chapter. 12178

The director of natural resources shall make recommendations 12179  
to reduce the adverse environmental effects of each project that a 12180  
soil and water conservation district plans to undertake under 12181  
division (A), (B), (C), or (D) of this section and that will be 12182  
funded in whole or in part by moneys authorized under section 12183  
1515.16 of the Revised Code and shall disapprove any such project 12184  
that the director finds will adversely affect the environment 12185  
without equal or greater benefit to the public. The director's 12186  
disapproval or recommendations, upon the request of the district 12187  
filed in accordance with rules adopted by the Ohio soil and water 12188  
conservation commission, shall be reviewed by the commission, 12189  
which may confirm the director's decision, modify it, or add 12190

recommendations to or approve a project the director has 12191  
disapproved. 12192

Any instrument by which real property is acquired pursuant to 12193  
this section shall identify the agency of the state that has the 12194  
use and benefit of the real property as specified in section 12195  
5301.012 of the Revised Code. 12196

**Sec. 1519.05.** (A) As used in this section, "local political 12197  
subdivision" and "nonprofit organization" have the same meanings 12198  
as in section 164.20 of the Revised Code. 12199

(B) There is hereby created in the state treasury the clean 12200  
Ohio trail fund. Twelve and one-half per cent of the net proceeds 12201  
of obligations issued and sold pursuant to sections 151.01 and 12202  
151.09 of the Revised Code shall be deposited into the fund. 12203

Investment earnings of the fund shall be credited to the 12204  
fund. ~~For two years after the effective date of this section,~~ 12205  
~~investment earnings credited to the fund~~ and may be used to pay 12206  
costs incurred by the director of natural resources in 12207  
administering this section. 12208

Money in the clean Ohio trail fund shall not be used for the 12209  
appropriation of land, rights, rights-of-way, franchises, 12210  
easements, or other property through the exercise of the right of 12211  
eminent domain. 12212

The director shall use moneys in the fund exclusively to 12213  
provide matching grants to nonprofit organizations and to local 12214  
political subdivisions for the purposes of purchasing land or 12215  
interests in land for recreational trails and for the construction 12216  
of such trails. A matching grant may provide up to seventy-five 12217  
per cent of the cost of a recreational trail project, and the 12218  
recipient of the matching grant shall provide not less than 12219  
twenty-five per cent of that cost. 12220

(C) The director shall establish policies for the purposes of 12221  
this section. The policies shall establish all of the following: 12222

(1) Procedures for providing matching grants to nonprofit 12223  
organizations and local political subdivisions for the purposes of 12224  
purchasing land or interests in land for recreational trails and 12225  
for the construction of such trails, including, without 12226  
limitation, procedures for both of the following: 12227

(a) Developing a grant application form and soliciting, 12228  
accepting, and approving grant applications; 12229

(b) Participation by nonprofit organizations and local 12230  
political subdivisions in the application process. 12231

(2) A requirement that an application for a matching grant 12232  
for a recreational trail project include a copy of a resolution 12233  
supporting the project from each county in which the proposed 12234  
project is to be conducted and whichever of the following is 12235  
applicable: 12236

(a) If the proposed project is to be conducted wholly within 12237  
the geographical boundaries of one township, a copy of a 12238  
resolution supporting the project from the township; 12239

(b) If the proposed project is to be conducted wholly within 12240  
the geographical boundaries of one municipal corporation, a copy 12241  
of a resolution supporting the project from the municipal 12242  
corporation; 12243

(c) If the proposed project is to be conducted in more than 12244  
one, but fewer than five townships or municipal corporations, a 12245  
copy of a resolution supporting the project from at least one-half 12246  
of the total number of townships and municipal corporations in 12247  
which the proposed project is to be conducted; 12248

(d) If the proposed project is to be conducted in five or 12249  
more municipal corporations, a copy of a resolution supporting the 12250

project from at least three-fifths of the total number of 12251  
townships and municipal corporations in which the proposed project 12252  
is to be conducted. 12253

(3) Eligibility criteria that must be satisfied by an 12254  
applicant in order to receive a matching grant and that emphasize 12255  
the following: 12256

(a) Synchronization with the statewide trail plan; 12257

(b) Complete regional systems and links to the statewide 12258  
trail system; 12259

(c) A combination of funds from various state agencies; 12260

(d) The provision of links in urban areas that support 12261  
commuter access and show economic impact on local communities; 12262

(e) The linkage of population centers with public outdoor 12263  
recreation areas and facilities; 12264

(f) The purchase of rail lines that are linked to the 12265  
statewide trail plan; 12266

(g) The preservation of natural corridors. 12267

(4) Items of value, such as in-kind contributions of land, 12268  
easements or other interests in land, labor, or materials, that 12269  
may be considered as contributing toward the percentage of the 12270  
cost of a recreational trails project that must be provided by a 12271  
matching grant recipient. 12272

**Sec. 1521.06.** (A) No dam may be constructed for the purpose 12273  
of storing, conserving, or retarding water, or for any other 12274  
purpose, nor shall any dike or levee be constructed for the 12275  
purpose of diverting or retaining flood water, unless the person 12276  
or governmental agency desiring the construction has a 12277  
construction permit for the dam, dike, or levee issued by the 12278  
chief of the division of water. 12279

A construction permit is not required under this section for: 12280

(1) A dam ~~which~~ that is or will be less than ten feet in 12281  
height and ~~which~~ that has or will have a storage capacity of not 12282  
more than fifty acre-feet at the elevation of the top of the dam, 12283  
as determined by the chief. For the purposes of this section, the 12284  
height of a dam shall be measured from the natural stream bed or 12285  
lowest ground elevation at the downstream or outside limit of the 12286  
dam to the elevation of the top of the dam. 12287

(2) A dam, regardless of height, ~~which~~ that has or will have 12288  
a storage capacity of not more than fifteen acre-feet at the 12289  
elevation of the top of the dam, as determined by the chief; 12290

(3) A dam, regardless of storage capacity, ~~which~~ that is or 12291  
will be six feet or less in height, as determined by the chief; 12292

(4) A dam, dike, or levee ~~which~~ that belongs to a class 12293  
exempted by the chief; 12294

(5) The repair, maintenance, improvement, alteration, or 12295  
removal of a dam, dike, or levee ~~which~~ that is subject to section 12296  
1521.062 of the Revised Code, unless the construction constitutes 12297  
an enlargement of the structure as determined by the chief; 12298

(6) A dam or impoundment constructed under Chapter 1513. of 12299  
the Revised Code. 12300

(B) Before a construction permit may be issued, three copies 12301  
of the plans and specifications, including a detailed cost 12302  
estimate, for the proposed construction, prepared by a registered 12303  
professional engineer, together with the filing fee specified by 12304  
this section and the bond or other security required by section 12305  
1521.061 of the Revised Code, shall be filed with the chief. The 12306  
detailed estimate of the cost shall include all costs associated 12307  
with the construction of the dam, dike, or levee, including 12308  
supervision and inspection of the construction by a registered 12309

professional engineer. ~~Except for a political subdivision, the~~ The 12310  
filing fee shall be based on the detailed cost estimate for the 12311  
proposed construction as filed with and approved by the chief, and 12312  
shall be determined by the following schedule unless otherwise 12313  
provided by rules adopted under this section: 12314

(1) For the first one hundred thousand dollars of estimated 12315  
cost, a fee of ~~two~~ four per cent; 12316

(2) For the next four hundred thousand dollars of estimated 12317  
cost, a fee of ~~one and one-half~~ three per cent; 12318

(3) For the next five hundred thousand dollars of estimated 12319  
cost, a fee of ~~one~~ two per cent; 12320

(4) For all costs in excess of one million dollars, a fee of 12321  
~~one-quarter~~ one-half of one per cent. 12322

In no case shall the filing fee be less than ~~two hundred~~ one 12323  
thousand dollars or more than ~~fifty~~ one hundred thousand dollars. 12324  
If the actual cost exceeds the estimated cost by more than fifteen 12325  
per cent, an additional filing fee shall be required equal to the 12326  
fee determined by the preceding schedule less the original filing 12327  
fee. ~~The filing fee for a political subdivision shall be two~~ 12328  
~~hundred dollars.~~ All fees collected pursuant to this section, and 12329  
all fines collected pursuant to section 1521.99 of the Revised 12330  
Code, shall be deposited in the state treasury to the credit of 12331  
the dam safety fund, which is hereby created. Expenditures from 12332  
the fund shall be made by the chief for the purpose of 12333  
administering this section and sections 1521.061 and 1521.062 of 12334  
the Revised Code. 12335

(C) The chief shall, within thirty days from the date of the 12336  
receipt of the application, fee, and bond or other security, issue 12337  
or deny a construction permit for the construction or may issue a 12338  
construction permit conditioned upon the making of such changes in 12339  
the plans and specifications for the construction as ~~he~~ the chief 12340

considers advisable if ~~he~~ the chief determines that the 12341  
construction of the proposed dam, dike, or levee, in accordance 12342  
with the plans and specifications filed, would endanger life, 12343  
health, or property. 12344

(D) The chief may deny a construction permit ~~if he finds~~ 12345  
after finding that a dam, dike, or levee built in accordance with 12346  
the plans and specifications would endanger life, health, or 12347  
property, because of improper or inadequate design, or for such 12348  
other reasons as the chief may determine. 12349

In the event the chief denies a permit for the construction 12350  
of the dam, dike, or levee, or issues a permit conditioned upon a 12351  
making of changes in the plans or specifications for the 12352  
construction, ~~he~~ the chief shall state ~~his~~ the reasons therefor 12353  
and so notify, in writing, the person or governmental agency 12354  
making the application for a permit. If the permit is denied, the 12355  
chief shall return the bond or other security to the person or 12356  
governmental agency making application for the permit. 12357

The decision of the chief conditioning or denying a 12358  
construction permit is subject to appeal as provided in Chapter 12359  
119. of the Revised Code. A dam, dike, or levee built 12360  
substantially at variance from the plans and specifications upon 12361  
which a construction permit was issued is in violation of this 12362  
section. The chief may at any time inspect any dam, dike, or 12363  
levee, or site upon which any dam, dike, or levee is to be 12364  
constructed, in order to determine whether it complies with this 12365  
section. 12366

(E) A registered professional engineer shall inspect the 12367  
construction for which the permit was issued during all phases of 12368  
construction and shall furnish to the chief such regular reports 12369  
of ~~his~~ the engineer's inspections as the chief may require. When 12370  
the chief finds that construction has been fully completed in 12371  
accordance with the terms of the permit and the plans and 12372

specifications approved by ~~him~~ the chief, ~~he~~ the chief shall 12373  
approve the construction. When one year has elapsed after approval 12374  
of the completed construction, and the chief finds that within 12375  
this period no fact has become apparent to indicate that the 12376  
construction was not performed in accordance with the terms of the 12377  
permit and the plans and specifications approved by the chief, or 12378  
that the construction as performed would endanger life, health, or 12379  
property, ~~he~~ the chief shall release the bond or other security. 12380  
No bond or other security shall be released until one year after 12381  
final approval by the chief, unless the dam, dike, or levee has 12382  
been modified so that it will not retain water and has been 12383  
approved as nonhazardous after determination by the chief that the 12384  
dam, dike, or levee as modified will not endanger life, health, or 12385  
property. 12386

(F) When inspections required by this section are not being 12387  
performed, the chief shall notify the person or governmental 12388  
agency to which the permit has been issued that inspections are 12389  
not being performed by the registered professional engineer and 12390  
that the chief will inspect the remainder of the construction. 12391  
Thereafter, the chief shall inspect the construction and the cost 12392  
of inspection shall be charged against the owner. Failure of the 12393  
registered professional engineer to submit required inspection 12394  
reports shall be deemed notice that ~~his~~ the engineer's inspections 12395  
are not being performed. 12396

(G) The chief may order construction to cease on any dam, 12397  
dike, or levee ~~which~~ that is being built in violation of ~~the~~ 12398  
~~provisions of~~ this section, and may prohibit the retention of 12399  
water behind any dam, dike, or levee ~~which~~ that has been built in 12400  
violation of ~~the provisions of~~ this section. The attorney general, 12401  
upon written request of the chief, may bring an action for an 12402  
injunction against any person who violates this section or to 12403  
enforce an order or prohibition of the chief made pursuant to this 12404



section. 12405

(H) The chief may adopt rules in accordance with Chapter 119. 12406  
of the Revised Code, for the design and construction of dams, 12407  
dikes, and levees for which a construction permit is required by 12408  
this section or for which periodic inspection is required by 12409  
section 1521.062 of the Revised Code, for establishing a filing 12410  
fee schedule in lieu of the schedule established under division 12411  
(B) of this section, for deposit and forfeiture of bonds and other 12412  
securities required by section 1521.061 of the Revised Code, for 12413  
the periodic inspection, operation, repair, improvement, 12414  
alteration, or removal of all dams, dikes, and levees, as 12415  
specified in section 1521.062 of the Revised Code, and for 12416  
establishing classes of dams, dikes, or levees ~~which~~ that are 12417  
exempt from the requirements of sections 1521.06 and 1521.062 of 12418  
the Revised Code as being of a size, purpose, or situation ~~which~~ 12419  
that does not present a substantial hazard to life, health, or 12420  
property. The chief may, by rule, limit the period during which a 12421  
construction permit issued under this section is valid. If a 12422  
construction permit expires before construction is completed, the 12423  
person or agency shall apply for a new permit, and shall not 12424  
continue construction until the new permit is issued. 12425

~~(I) As used in this section and section 1521.063 of the~~ 12426  
~~Revised Code, "political subdivision" includes townships,~~ 12427  
~~municipal corporations, counties, school districts, municipal~~ 12428  
~~universities, park districts, sanitary districts, and conservancy~~ 12429  
~~districts and subdivisions thereof.~~ 12430

**Sec. 1521.063.** (A) Except for a ~~political subdivision~~ the 12431  
federal government, the owner of any dam subject to section 12432  
1521.062 of the Revised Code shall pay an annual fee, based upon 12433  
the height of the dam, to the division of water on or before June 12434  
30, 1988, and on or before the thirtieth day of June of each 12435

succeeding year. The annual fee shall be as follows until 12436  
otherwise provided by rules adopted under this section: 12437

(1) For any dam classified as a class I dam under rules 12438  
adopted by the chief of the division of water under section 12439  
1521.06 of the Revised Code, thirty dollars plus ~~three~~ ten dollars 12440  
per foot of height of dam; 12441

(2) For any dam classified as a class II dam under those 12442  
rules, thirty dollars plus one dollar per foot of height of dam; 12443

(3) For any dam classified as a class III dam under those 12444  
rules, thirty dollars. 12445

For purposes of this section, the height of a dam is the 12446  
vertical height, to the nearest foot, as determined by the 12447  
division under section 1521.062 of the Revised Code. All fees 12448  
collected under this section shall be deposited in the dam safety 12449  
fund created in section 1521.06 of the Revised Code. Any owner who 12450  
fails to pay any annual fee required by this section within sixty 12451  
days after the due date shall be assessed a penalty of ten per 12452  
cent of the annual fee plus interest at the rate of one-half per 12453  
cent per month from the due date until the date of payment. 12454

(B) The chief shall, in accordance with Chapter 119. of the 12455  
Revised Code, adopt, and may amend or rescind, rules for the 12456  
collection of fees and the administration, implementation, and 12457  
enforcement of this section and for the establishment of an annual 12458  
fee schedule in lieu of the schedule established under division 12459  
(A) of this section. 12460

(C)(1) No person, political subdivision, or state 12461  
governmental agency shall violate or fail to comply with this 12462  
section or any rule or order adopted or issued under it. 12463

(2) The attorney general, upon written request of the chief, 12464  
may commence an action against any such violator. Any action under 12465  
division (C)(2) of this section is a civil action. 12466

(D) As used in this section, "political subdivision" includes 12467  
townships, municipal corporations, counties, school districts, 12468  
municipal universities, park districts, sanitary districts, and 12469  
conservancy districts and subdivisions thereof. 12470

**Sec. 1531.26.** There is hereby created in the state treasury 12471  
the nongame and endangered wildlife fund, which shall consist of 12472  
moneys paid into it by the tax commissioner under section 5747.113 12473  
of the Revised Code, moneys deposited in the fund from the 12474  
issuance of wildlife conservation license plates under section 12475  
4503.57 of the Revised Code, moneys deposited in the fund from the 12476  
issuance of bald eagle license plates under section 4503.572 of 12477  
the Revised Code, moneys credited to the fund under section 12478  
1533.151 of the Revised Code, and ~~of~~ contributions made directly 12479  
to it. Any person may contribute directly to the fund in addition 12480  
to or independently of the income tax refund contribution system 12481  
established in section 5747.113 of the Revised Code. Moneys in the 12482  
fund shall be disbursed pursuant to vouchers approved by the 12483  
director of natural resources for use by the division of wildlife 12484  
solely for the purchase, management, preservation, propagation, 12485  
protection, and stocking of wild animals that are not commonly 12486  
taken for sport or commercial purposes, including the acquisition 12487  
of title and easements to lands, biological investigations, law 12488  
enforcement, production of educational materials, sociological 12489  
surveys, habitat development, and personnel and equipment costs; 12490  
and for carrying out section 1531.25 of the Revised Code. Moneys 12491  
in the fund also may be used to promote and develop nonconsumptive 12492  
wildlife recreational opportunities involving wild animals. Moneys 12493  
in the fund from the issuance of bald eagle license plates under 12494  
section 4503.572 of the Revised Code shall be expended by the 12495  
division only to pay the costs of acquiring, developing, and 12496  
restoring habitat for bald eagles within this state. Moneys in the 12497  
fund from any other source also may be used to pay the costs of 12498

acquiring, developing, and restoring habitat for bald eagles 12499  
within this state. 12500

All investment earnings of the fund shall be credited to the 12501  
fund. Subject to the approval of the director, the chief of the 12502  
division of wildlife may enter into agreements that the chief 12503  
considers appropriate to obtain additional moneys for the 12504  
protection of nongame native wildlife under the "Endangered 12505  
Species Act of 1973," 87 Stat. 884, 16 U.S.C.A. 1541-1543, as 12506  
amended, and the "Fish and Wildlife Conservation Act of 1980," 94 12507  
Stat. 1322, 16 U.S.C.A. 2901-2911, as amended. Moneys appropriated 12508  
from the fund are not intended to replace other moneys 12509  
appropriated for these purposes. 12510

**Sec. 1533.08.** Except as otherwise provided by division rule, 12511  
any person desiring to collect wild animals that are protected by 12512  
law or their nests or eggs for scientific study, school 12513  
instruction, other educational uses, or rehabilitation shall make 12514  
application to the chief of the division of wildlife for a wild 12515  
animal collecting permit on a form furnished by the chief. Each 12516  
applicant for a wild animal collecting permit, other than an 12517  
applicant desiring to rehabilitate wild animals, shall pay an 12518  
annual fee of ~~ten~~ twenty-five dollars for each permit. No fee 12519  
shall be charged to an applicant desiring to rehabilitate wild 12520  
animals. When it appears that the application is made in good 12521  
faith, the chief shall issue to the applicant a permit to take, 12522  
possess, and transport at any time and in any manner specimens of 12523  
wild animals protected by law or their nests and eggs for 12524  
scientific study, school instruction, other educational uses, or 12525  
rehabilitation and under any additional rules recommended by the 12526  
wildlife council. Upon the receipt of a permit, the holder may 12527  
take, possess, and transport those wild animals in accordance with 12528  
the permit. 12529

Each holder of a permit engaged in collecting such wild animals shall carry the permit at all times and shall exhibit it upon demand to any wildlife officer, constable, sheriff, deputy sheriff, or police officer, to the owner or person in lawful control of the land upon which the permit holder is collecting, or to any other person. Failure to so carry or exhibit the permit constitutes an offense under this section.

Each permit holder shall keep a daily record of all specimens collected under the permit and the disposition of the specimens and shall exhibit the daily record to any official of the division upon demand.

Each permit shall remain in effect for one year from the date of issuance unless it is revoked sooner by the chief.

All moneys received as fees for the issuance of a wild animal collecting permit shall be transmitted to the director of natural resources to be paid into the state treasury to the credit of the fund created by section 1533.15 of the Revised Code.

**Sec. 1533.10.** Except as provided in this section or division (A) of section 1533.12 of the Revised Code, no person shall hunt any wild bird or wild quadruped without a hunting license. Each day that any person hunts within the state without procuring such a license constitutes a separate offense. Every applicant for a hunting license who is a resident of the state and sixteen years of age or more shall procure a resident hunting license, the fee for which shall be ~~fourteen~~ eighteen dollars, unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a resident hunting license to the applicant free of charge. Every applicant who is a resident of the state and under the age of sixteen years shall procure a special youth hunting license, the fee for which shall be one-half of the regular hunting license fee. The owner of lands in the state and

the owner's children of any age and grandchildren under eighteen 12561  
years of age may hunt on the lands without a hunting license. The 12562  
tenant ~~or manager~~ and children of the tenant ~~or manager~~, residing 12563  
on lands in the state, may hunt on them without a hunting license. 12564  
Every applicant for a hunting license who is a nonresident of the 12565  
state shall procure a nonresident hunting license, the fee for 12566  
which shall be ~~ninety four~~ one hundred twenty-four dollars, unless the 12567  
applicant is a resident of a state that is a party to an agreement 12568  
under section 1533.91 of the Revised Code, in which case the fee 12569  
shall be ~~fourteen~~ eighteen dollars. 12570

The chief of the division of wildlife may issue a ~~tourist's~~ 12571  
small game hunting license expiring three days from the effective 12572  
date of the license to a nonresident of the state, the fee for 12573  
which shall be ~~twenty-four~~ thirty-nine dollars. No person shall 12574  
take or possess deer, wild turkeys, fur-bearing animals, ducks, 12575  
geese, brant, or any nongame animal while possessing only a 12576  
~~tourist's~~ small game hunting license. A ~~tourist's~~ small game 12577  
hunting license does not authorize the taking or possessing of 12578  
ducks, geese, or brant without having obtained, in addition to the 12579  
~~tourist's~~ small game hunting license, a wetlands habitat stamp as 12580  
provided in section 1533.112 of the Revised Code. A ~~tourist's~~ 12581  
small game hunting license does not authorize the taking or 12582  
possessing of deer, wild turkeys, or fur-bearing animals. A 12583  
nonresident of the state who wishes to take or possess deer, wild 12584  
turkeys, or fur-bearing animals in this state shall procure, 12585  
respectively, a special deer or wild turkey permit as provided in 12586  
section 1533.11 of the Revised Code or a fur taker permit as 12587  
provided in section 1533.111 of the Revised Code in addition to a 12588  
nonresident hunting license as provided in this section. 12589

No person shall procure or attempt to procure a hunting 12590  
license by fraud, deceit, misrepresentation, or any false 12591  
statement. 12592

This section does not authorize the taking and possessing of 12593  
deer or wild turkeys without first having obtained, in addition to 12594  
the hunting license required by this section, a special deer or 12595  
wild turkey permit as provided in section 1533.11 of the Revised 12596  
Code or the taking and possessing of ducks, geese, or brant 12597  
without first having obtained, in addition to the hunting license 12598  
required by this section, a wetlands habitat stamp as provided in 12599  
section 1533.112 of the Revised Code. 12600

This section does not authorize the hunting or trapping of 12601  
fur-bearing animals without first having obtained, in addition to 12602  
a hunting license required by this section, a fur taker permit as 12603  
provided in section 1533.111 of the Revised Code. 12604

No hunting license shall be issued unless it is accompanied 12605  
by a written explanation of the law in section 1533.17 of the 12606  
Revised Code and the penalty for its violation, including a 12607  
description of terms of imprisonment and fines that may be 12608  
imposed. 12609

No hunting license shall be issued unless the applicant 12610  
presents to the agent authorized to issue the license a previously 12611  
held hunting license or evidence of having held such a license in 12612  
content and manner approved by the chief, a certificate of 12613  
completion issued upon completion of a hunter education and 12614  
conservation course approved by the chief, or evidence of 12615  
equivalent training in content and manner approved by the chief. 12616

No person shall issue a hunting license to any person who 12617  
fails to present the evidence required by this section. No person 12618  
shall purchase or obtain a hunting license without presenting to 12619  
the issuing agent the evidence required by this section. Issuance 12620  
of a hunting license in violation of the requirements of this 12621  
section is an offense by both the purchaser of the illegally 12622  
obtained hunting license and the clerk or agent who issued the 12623

hunting license. Any hunting license issued in violation of this 12624  
section is void. 12625

The chief, with approval of the wildlife council, shall adopt 12626  
rules prescribing a hunter education and conservation course for 12627  
first-time hunting license buyers and for volunteer instructors. 12628  
The course shall consist of subjects including, but not limited 12629  
to, hunter safety and health, use of hunting implements, hunting 12630  
tradition and ethics, the hunter and conservation, the law in 12631  
section 1533.17 of the Revised Code along with the penalty for its 12632  
violation, including a description of terms of imprisonment and 12633  
fines that may be imposed, and other law relating to hunting. 12634  
Authorized personnel of the division or volunteer instructors 12635  
approved by the chief shall conduct such courses with such 12636  
frequency and at such locations throughout the state as to 12637  
reasonably meet the needs of license applicants. The chief shall 12638  
issue a certificate of completion to each person who successfully 12639  
completes the course and passes an examination prescribed by the 12640  
chief. 12641

**Sec. 1533.101.** Any person who has been issued a hunting or 12642  
fishing license, a wetlands habitat stamp, a deer or wild turkey 12643  
permit, or a fur taker permit for the current license, stamp, or 12644  
permit year or for the license, stamp, or permit year next 12645  
preceding the current such year pursuant to this chapter, and if 12646  
the license, stamp, or permit has been lost, destroyed, or stolen, 12647  
may be issued a reissued hunting or fishing license, wetlands 12648  
habitat stamp, deer or wild turkey permit, or fur taker permit. 12649  
The person shall file with the clerk of the court of common pleas 12650  
an application in affidavit form or, if the chief of the division 12651  
of wildlife authorizes it, apply for a reissued license, stamp, or 12652  
permit to an authorized agent designated by the chief, and pay a 12653  
fee for each license, stamp, or permit of ~~two~~ four dollars plus 12654  
one dollar to the clerk or agent, who shall issue a reissued 12655



license, stamp, or permit that shall allow the applicant to hunt, 12656  
fish, or trap, as the case may be. The clerk or agent shall 12657  
administer the oath to the applicant and shall send a copy of the 12658  
reissued license, stamp, or permit to the division of wildlife. 12659

All moneys received as fees for the issuance of reissued 12660  
licenses, stamps, or permits shall be transmitted to the director 12661  
of natural resources to be paid into the state treasury to the 12662  
credit of the funds to which the fees for the original licenses, 12663  
stamps, and permits were credited. 12664

No person shall knowingly or willfully secure, attempt to 12665  
secure, or use a reissued hunting or fishing license, wetlands 12666  
habitat stamp, deer or wild turkey permit, or fur taker permit to 12667  
which the person is not entitled. No person shall knowingly or 12668  
willfully issue a reissued hunting or fishing license, wetlands 12669  
habitat stamp, deer or wild turkey permit, or fur taker permit 12670  
under this section to any person who is not entitled to receive 12671  
and use such a reissued license, stamp, or permit. 12672

**Sec. 1533.11.** (A) Except as provided in this section, no 12673  
person shall hunt deer on lands of another without first obtaining 12674  
an annual special deer permit. Except as provided in this section, 12675  
no person shall hunt wild turkeys on lands of another without 12676  
first obtaining an annual special wild turkey permit. Each 12677  
applicant for a special deer or wild turkey permit shall pay an 12678  
annual fee of ~~nineteen~~ twenty-three dollars for each permit, 12679  
together with the one-dollar ~~as a~~ fee to the clerk or other 12680  
issuing agent established in section 1533.13 of the Revised Code, 12681  
for the permit unless the rules adopted under division (B) of 12682  
section 1533.12 of the Revised Code provide for issuance of a deer 12683  
or wild turkey permit to the applicant free of charge. Except as 12684  
provided in division (A) of section 1533.12 of the Revised Code, a 12685  
deer or wild turkey permit shall run concurrently with the hunting 12686

license. The money received, other than the ~~one-dollar~~ issuing 12687  
agent's fee ~~provided for above~~, shall be paid into the state 12688  
treasury to the credit of the wildlife fund, created in section 12689  
1531.17 of the Revised Code, exclusively for the use of the 12690  
division of wildlife in the acquisition and development of land 12691  
for deer or wild turkey management, for investigating deer or wild 12692  
turkey problems, and for the stocking, management, and protection 12693  
of deer or wild turkey. Every person, while hunting deer or wild 12694  
turkey on lands of another, shall carry the person's special deer 12695  
or wild turkey permit and exhibit it to any enforcement officer so 12696  
requesting. Failure to so carry and exhibit such a permit 12697  
constitutes an offense under this section. The chief of the 12698  
division of wildlife shall adopt any additional rules the chief 12699  
considers necessary to carry out this section and section 1533.10 12700  
of the Revised Code. 12701

The owner and the children of the owner of lands in this 12702  
state may hunt deer or wild turkey thereon without a special deer 12703  
or wild turkey permit. The tenant ~~or manager~~ and children of the 12704  
tenant ~~or manager~~ may hunt deer or wild turkey on lands where they 12705  
reside without a special deer or wild turkey permit. 12706

(B) A special deer or wild turkey permit is not transferable. 12707  
No person shall carry a special deer or wild turkey permit issued 12708  
in the name of another person. 12709

(C) The wildlife refunds fund is hereby created in the state 12710  
treasury. The fund shall consist of money received from 12711  
application fees for special deer permits that are not issued. 12712  
Money in the fund shall be used to make refunds of such 12713  
application fees. 12714

**Sec. 1533.111.** Except as provided in this section or division 12715  
(A) of section 1533.12 of the Revised Code, no person shall hunt 12716  
or trap fur-bearing animals on land of another without first 12717

obtaining an annual fur taker permit. Each applicant for a fur 12718  
taker permit shall pay an annual fee of ~~ten~~ fourteen dollars, 12719  
together with one dollar as a fee to the clerk or other issuing 12720  
agent, for the permit, except as otherwise provided in this 12721  
section or unless the rules adopted under division (B) of section 12722  
1533.12 of the Revised Code provide for issuance of a fur taker 12723  
permit to the applicant free of charge. Each applicant who is a 12724  
resident of the state and under the age of sixteen years shall 12725  
procure a special youth fur taker permit, the fee for which shall 12726  
be one-half of the regular fur taker permit fee and which shall be 12727  
paid together with the one-dollar ~~as a~~ fee to the clerk or other 12728  
issuing agent established in section 1533.13 of the Revised Code. 12729  
The fur taker permit shall run concurrently with the hunting 12730  
license. The money received, other than the ~~one-dollar~~ issuing 12731  
agent's fee ~~provided for in this section~~, shall be paid into the 12732  
state treasury to the credit of the fund established in section 12733  
1533.15 of the Revised Code. 12734

No fur taker permit shall be issued unless it is accompanied 12735  
by a written explanation of the law in section 1533.17 of the 12736  
Revised Code and the penalty for its violation, including a 12737  
description of terms of imprisonment and fines that may be 12738  
imposed. 12739

No fur taker permit shall be issued unless the applicant 12740  
presents to the agent authorized to issue a fur taker permit a 12741  
previously held hunting license or trapping or fur taker permit or 12742  
evidence of having held such a license or permit in content and 12743  
manner approved by the chief of the division of wildlife, a 12744  
certificate of completion issued upon completion of a trapper 12745  
education course approved by the chief, or evidence of equivalent 12746  
training in content and manner approved by the chief. 12747

No person shall issue a fur taker permit to any person who 12748  
fails to present the evidence required by this section. No person 12749

shall purchase or obtain a fur taker permit without presenting to 12750  
the issuing agent the evidence required by this section. Issuance 12751  
of a fur taker permit in violation of the requirements of this 12752  
section is an offense by both the purchaser of the illegally 12753  
obtained permit and the clerk or agent who issued the permit. Any 12754  
fur taker permit issued in violation of this section is void. 12755

The chief, with approval of the wildlife council, shall adopt 12756  
rules prescribing a trapper education course for first-time fur 12757  
taker permit buyers and for volunteer instructors. The course 12758  
shall consist of subjects that include, but are not limited to, 12759  
trapping techniques, animal habits and identification, trapping 12760  
tradition and ethics, the trapper and conservation, the law in 12761  
section 1533.17 of the Revised Code along with the penalty for its 12762  
violation, including a description of terms of imprisonment and 12763  
fines that may be imposed, and other law relating to trapping. 12764  
Authorized personnel of the division of wildlife or volunteer 12765  
instructors approved by the chief shall conduct the courses with 12766  
such frequency and at such locations throughout the state as to 12767  
reasonably meet the needs of permit applicants. The chief shall 12768  
issue a certificate of completion to each person who successfully 12769  
completes the course and passes an examination prescribed by the 12770  
chief. 12771

Every person, while hunting or trapping fur-bearing animals 12772  
on lands of another, shall carry the person's fur taker permit 12773  
affixed to the person's hunting license with the person's 12774  
signature written across the face of the permit. Failure to carry 12775  
such a signed permit constitutes an offense under this section. 12776  
The chief shall adopt any additional rules the chief considers 12777  
necessary to carry out this section. 12778

The owner and the children of the owner of lands in this 12779  
state may hunt or trap fur-bearing animals thereon without a fur 12780  
taker permit. The tenant ~~or manager~~ and children of the tenant ~~or~~ 12781

~~manager~~ may hunt or trap fur-bearing animals on lands where they 12782  
reside without a fur taker permit. 12783

A fur taker permit is not transferable. No person shall carry 12784  
a fur taker permit issued in the name of another person. 12785

A fur taker permit entitles a nonresident to take from this 12786  
state fur-bearing animals taken and possessed by the nonresident 12787  
as provided by law or division rule. 12788

**Sec. 1533.112.** Except as provided in this section or unless 12789  
otherwise provided by division rule, no person shall hunt ducks, 12790  
geese, or brant on the lands of another without first obtaining an 12791  
annual wetlands habitat stamp. The annual fee for the wetlands 12792  
habitat stamp shall be ~~ten~~ fourteen dollars for each stamp, 12793  
together with the one-dollar ~~as a~~ fee to the clerk or other 12794  
issuing agent established in section 1533.13 of the Revised Code, 12795  
unless the rules adopted under division (B) of section 1533.12 12796  
provide for issuance of a wetlands habitat stamp to the applicant 12797  
free of charge. 12798

Moneys received from the stamp fee, other than the ~~one-~~ 12799  
~~dollar clerk's~~ issuing agent's fee, shall be paid into the state 12800  
treasury to the credit of the wetlands habitat fund, which is 12801  
hereby established. Moneys shall be paid from the fund on the 12802  
order of the director of natural resources for the following 12803  
purposes: 12804

(A) Sixty per cent for projects that the division approves 12805  
for the acquisition, development, management, or preservation of 12806  
waterfowl areas within the state; 12807

(B) Forty per cent for contribution by the division to an 12808  
appropriate nonprofit organization for the acquisition, 12809  
development, management, or preservation of lands and waters 12810  
within the United States or Canada that provide or will provide 12811

habitat for waterfowl with migration routes that cross this state. 12812

No moneys derived from the issuance of wetlands habitat 12813  
stamps shall be spent for purposes other than those specified by 12814  
this section. All investment earnings of the fund shall be 12815  
credited to the fund. 12816

Wetlands habitat stamps shall be furnished by and in a form 12817  
prescribed by the chief of the division of wildlife and issued by 12818  
clerks and other agents authorized to issue licenses and permits 12819  
under section 1533.13 of the Revised Code. The record of stamps 12820  
kept by the clerks and other agents shall be uniform throughout 12821  
the state, in such form or manner as the director prescribes, and 12822  
open at all reasonable hours to the inspection of any person. 12823  
Unless otherwise provided by rule, each stamp shall remain in 12824  
force until midnight of the thirty-first day of August next 12825  
ensuing. Wetlands habitat stamps may be issued in any manner to 12826  
any person on any date, whether or not that date is within the 12827  
period in which they are effective. 12828

Every person to whom this section applies, while hunting 12829  
ducks, geese, or brant, shall carry an unexpired wetlands habitat 12830  
stamp that is validated by the person's signature written on the 12831  
stamp in ink and shall exhibit the stamp to any enforcement 12832  
officer so requesting. No person shall fail to carry and exhibit 12833  
the person's stamp. 12834

A wetlands habitat stamp is not transferable. 12835

The chief shall establish a procedure to obtain subject 12836  
matter to be printed on the wetlands habitat stamp and shall use, 12837  
dispose of, or distribute the subject matter as the chief 12838  
considers necessary. The chief also shall adopt rules necessary to 12839  
administer this section. 12840

This section does not apply to persons under sixteen years of 12841  
age nor to persons exempted from procuring a hunting license under 12842

section 1533.10 or division (A) of section 1533.12 of the Revised Code. 12843  
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**Sec. 1533.13.** Hunting and fishing licenses, wetlands habitat stamps, deer and wild turkey permits, and fur taker permits shall be issued by the clerk of the court of common pleas, village and township clerks, and other authorized agents designated by the chief of the division of wildlife. When required by the chief, a clerk or agent shall give bond in the manner provided by the chief. All bonds, reports, except records prescribed by the auditor of state, and moneys received by those persons shall be handled under rules adopted by the director of natural resources. 12845  
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The premium of any bond prescribed by the chief under this section may be paid by the chief. Any person who is designated and authorized by the chief to issue licenses, stamps, and permits as provided in this section, except the clerk of the court of common pleas and the village and township clerks, shall pay to the chief a premium in an amount that represents the person's portion of the premium paid by the chief under this section, which amount shall be established by the chief and approved by the wildlife council created under section 1531.03 of the Revised Code. The chief shall pay all moneys that the chief receives as premiums under this section into the state treasury to the credit of the wildlife fund created under section 1531.17 of the Revised Code. 12854  
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Every authorized agent, for the purpose of issuing hunting and fishing licenses, deer and wild turkey permits, and fur taker permits, may administer oaths to and take affidavits from applicants for the licenses or permits when required. An authorized agent may appoint deputies to perform any acts that the agent is authorized to perform, consistent with division rules. 12866  
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Every applicant for a hunting or fishing license, deer or wild turkey permit, or fur taker permit, unless otherwise provided 12872  
12873

by division rule, shall make and subscribe an affidavit setting 12874  
forth the applicant's name, age, weight, height, occupation, place 12875  
of residence, personal description, and citizenship. The clerk or 12876  
other agent authorized to issue licenses, stamps, and permits 12877  
shall charge each applicant a fee of one dollar for taking the 12878  
affidavit and issuing the license, stamp, or permit unless a 12879  
different fee for the issuance of a fishing license is established 12880  
in division rule as authorized by section 1533.32 of the Revised 12881  
Code. The application, license, permit, and other blanks required 12882  
by this section shall be prepared and furnished by the chief, in 12883  
such form as the chief provides, to the clerk or other agent 12884  
authorized to issue them. The licenses and permits shall be issued 12885  
to applicants by the clerk or other agent. The record of licenses 12886  
and permits kept by the clerk and other authorized agents shall be 12887  
uniform throughout the state and in such form or manner as the 12888  
auditor of state prescribes and shall be open at all reasonable 12889  
hours to the inspection of any person. Unless otherwise provided 12890  
by division rule, each hunting license, deer or wild turkey 12891  
permit, and fur taker permit issued shall remain in force until 12892  
midnight of the thirty-first day of August next ensuing. 12893  
Application for any such license or permit may be made and a 12894  
license or permit issued prior to the date upon which it becomes 12895  
effective. 12896

The chief may require an applicant who wishes to purchase a 12897  
license, stamp, or permit by mail or telephone to pay a nominal 12898  
fee for postage and handling. 12899

The court before whom a violator of any laws or division 12900  
rules for the protection of wild animals is tried, as a part of 12901  
the punishment, shall revoke the license, stamp, or permit of any 12902  
person convicted. The license, stamp, or permit fee paid by that 12903  
person shall not be returned to the person. The person shall not 12904  
procure or use any other license, stamp, or permit or engage in 12905



hunting wild animals or trapping fur-bearing animals during the 12906  
period of revocation as ordered by the court. 12907

No person under sixteen years of age shall engage in hunting 12908  
unless accompanied by the person's parent or another adult person. 12909

**Sec. 1533.151.** The chief of the division of wildlife, with 12910  
the approval of the director of natural resources, ~~is hereby~~ 12911  
~~authorized to~~ may print and issue stamps portraying wild animals 12912  
of the state. This stamp shall be identified as a wildlife 12913  
conservation stamp ~~and the~~. The fee for each stamp shall be five 12914  
dollars not more than the fee for a wetlands habitat stamp issued 12915  
under section 1533.112 of the Revised Code together with the 12916  
one-dollar fee to the issuing agent established in section 1533.13 12917  
of the Revised Code unless otherwise provided by division rule. 12918

The purchase of wildlife conservation stamps shall provide no 12919  
privileges to the purchaser, but merely recognizes ~~such~~ the person 12920  
as voluntarily contributing to the management, protection, and the 12921  
perpetuation of the wildlife resources of the state. All moneys 12922  
received from the sale of wildlife conservation stamps shall be 12923  
paid into the state treasury to the credit of the nongame and 12924  
endangered wildlife fund to be used exclusively by the division of 12925  
wildlife for the purposes outlined in section ~~1533.15~~ 1531.26 of 12926  
the Revised Code ~~and for the management of all forms of wildlife~~ 12927  
~~for its ecological and non consumptive recreational value.~~ 12928

**Sec. 1533.19.** Except as otherwise provided by division rule, 12929  
recognized field trial clubs may shoot domestically raised quails, 12930  
chukar partridges, ducks, pheasants, or other game birds and 12931  
common pigeons at any time during the daylight hours from the 12932  
first day of September to the thirtieth day of April of the 12933  
following year, both dates inclusive. Such domestically raised 12934  
quails, chukar partridges, ducks, pheasants, and other game birds 12935

shall be banded prior to release and approved by the division of 12936  
wildlife for field trial use, provided that permission for the 12937  
holding of such a trial shall be obtained from the division. 12938  
Permission shall be requested in writing at least thirty days in 12939  
advance of the trial. The request shall contain the name of the 12940  
recognized field trial club and the names of its officers, the 12941  
date and location of the trial, and the name of the licensed 12942  
breeders from whom the quails, chukar partridges, ducks, 12943  
pheasants, or other game birds will be obtained. The division may 12944  
grant a written permit when it is satisfied that the trial is a 12945  
bona fide one conducted by a bona fide club under this section. 12946  
When an application is approved, a permit shall be issued after 12947  
the payment of a fee of ~~twenty-five~~ fifty dollars for each day 12948  
upon which the trials are conducted. Participants in such trials 12949  
need not possess a hunter's license while participating in the 12950  
trials. The division shall supervise all such trials and shall 12951  
enforce all laws and division rules governing them. If unbanded 12952  
quails, chukar partridges, ducks, pheasants, or other game birds 12953  
are accidentally shot during such trials, they immediately shall 12954  
be replaced by the club by the releasing of an equal number of 12955  
live quails, chukar partridges, ducks, pheasants, or other game 12956  
birds under the supervision of the division. 12957

**Sec. 1533.23.** No person shall deal in or buy green or dried 12958  
furs, skins, or parts thereof, taken from fur-bearing animals of 12959  
the state, except domesticated rabbits, without a fur dealer's 12960  
permit. Every applicant for a fur dealer's permit shall make and 12961  
subscribe a statement setting forth ~~his~~ the applicant's name, 12962  
place of residence, and whom ~~he~~ the applicant represents. Every 12963  
applicant for a dealer's permit who is a nonresident of the state, 12964  
or who is a resident of the state and is an agent or 12965  
representative of a nonresident person, firm, or corporation, 12966  
shall pay an annual fee of two hundred dollars to the chief of the 12967

division of wildlife issuing such permit, and every applicant for 12968  
a dealer's permit who is a resident of the state shall pay an 12969  
annual fee of ~~fifty~~ seventy-five dollars to the chief ~~of the~~ 12970  
~~division of wildlife~~ issuing such permit, ~~and every~~. Every fur 12971  
dealer shall operate under such additional ~~regulations~~ rules as 12972  
are provided by the chief ~~of the division of wildlife~~. The chief 12973  
shall pay ~~such~~ the fees into the state treasury to the credit of 12974  
the fund created by section 1533.15 of the Revised Code for the 12975  
use of the division of wildlife in the purchase, preservation, 12976  
protection, and stocking of fur-bearing animals and for the 12977  
necessary clerical help and forms required by this section and 12978  
section 1533.24 of the Revised Code. 12979

All permits shall be procured from the chief and the 12980  
application, license, and other blanks required by this section 12981  
and section 1533.24 of the Revised Code shall be in such form as 12982  
the chief prescribes. Each such permit shall expire on the 12983  
thirtieth day of April next after its issuance. 12984

**Sec. 1533.301.** Any person may apply for a permit to transport 12985  
fish that are for sale, sold, or purchased. The chief of the 12986  
division of wildlife shall issue an annual permit granting the 12987  
applicant the privilege to transport such fish, upon filing of an 12988  
application on a form prescribed by the chief and payment of a fee 12989  
of ~~fifty~~ sixty-five dollars. No person shall transport any fish or 12990  
part thereof that is for sale, sold, or purchased, whether 12991  
acquired in or outside this state, unless the consignor has a 12992  
permit ~~issued to him~~ for the calendar year in which the fish is 12993  
transported, except that no such permit is required for any of the 12994  
following: 12995

(A) Fish transported from a point outside this state to 12996  
another point outside this state if the fish are not unloaded in 12997  
this state. A fish is not to be considered unloaded for purposes 12998

of this section if it remains under the control of a common carrier. 12999  
13000

(B) Fish being transported by a person holding a valid license under section 1533.34 of the Revised Code from the place of taking to ~~his~~ the person's usual place of processing or temporary storage as designated by ~~him~~ the person in the application for the license under that section; 13001  
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(C) Fish being transported from a premises designated in a valid permit issued under section 1533.631 of the Revised Code to a premises where fish are to be sold at retail, sold for immediate consumption, or consumed if inspection of the designated premises as required by that section has not been denied during the preceding thirty days; 13006  
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(D) Any quantity of fish the total weight of which does not exceed five hundred pounds in one vehicle; 13012  
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(E) Minnows for which a permit is required under section 1533.40 of the Revised Code. 13014  
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If a fish for which a permit is required under this section is transported in this state from a consignor who does not have a valid permit at the time of transportation, or if such a fish is transported in this state from a consignor who has a valid permit at the time of transportation, but the fish is part of the contents of a box, package, or receptacle that was or could be the basis for conviction of a violation of this chapter or a division rule, the fish may be seized by any law enforcement officer authorized by section 1531.13 of the Revised Code to enforce laws and division rules, and the fish shall escheat to the state unless a court of this state makes a specific finding that the consignor at the time of seizure had a valid permit under this section ~~1533.301 of the Revised Code~~ and that the fish are lawful under the requirements of this chapter or a division rule relating 13016  
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thereto. 13030

A fish for which a permit is required under this section may 13031  
be transported only if each box, package, or other receptacle 13032  
bears a label showing the total weight in pounds, the species of 13033  
the fish, the name of the consignor and consignee, the initial 13034  
point of billing, the destination, and a statement that each 13035  
species of fish by weight in the box, package, or other receptacle 13036  
that are undersized under ~~the provisions of~~ section 1533.63 of the 13037  
Revised Code or division rule is ten per cent or less or is in 13038  
excess of ten per cent, whichever the fact may be. If fish are not 13039  
boxed or packaged, each compartment of a tank or other receptacle 13040  
shall be considered a separate receptacle, but in lieu of a label 13041  
on the compartment or tank a written statement containing the same 13042  
information required to be contained on a label, and clearly 13043  
identifying the tank or receptacle concerned, may be carried in 13044  
the vehicle. Species may be designated in any manner, but the 13045  
label also shall bear either the common name indicated in section 13046  
1533.63 of the Revised Code or the scientific name contained in 13047  
section 1531.01 of the Revised Code. The consignor shall ascertain 13048  
that labels are attached or statements carried as required herein 13049  
and that the facts stated thereon are true. 13050

The permit required by this section may be suspended by the 13051  
chief for a period not to exceed five days upon conviction of the 13052  
permittee of a violation of this chapter or Chapter 1531. of the 13053  
Revised Code or a division rule if the permittee has been 13054  
convicted of another such violation during the preceding 13055  
twelve-month period. If the permittee has had two or more such 13056  
convictions during the twelve-month period preceding such a 13057  
conviction, ~~his~~ the permittee's permit may be suspended as 13058  
provided herein for a period not to exceed twenty days. A permit 13059  
is invalid during the period of suspension, but in no case is a 13060  
permit invalid until fifteen days after mailing by certified mail 13061

a notice of the rule of suspension by the chief. 13062

The chief may not suspend more than one permit of the same 13063  
permittee, or suspend a permit of the same permittee more than 13064  
once, for convictions resulting from violations that occur in a 13065  
load in one vehicle. 13066

A driver or other person in charge of a vehicle transporting 13067  
fish that are for sale, sold, or purchased, upon demand by any law 13068  
enforcement officer authorized by section 1531.13 of the Revised 13069  
Code to enforce laws and division rules, shall stop and open the 13070  
vehicle and allow inspection of the load, and any box, package, or 13071  
receptacle, and the contents thereof, for the purpose of 13072  
determining whether this chapter or a division rule is being 13073  
violated. 13074

The word "fish" in the English language, at least eight 13075  
inches high and maintained in a clear, conspicuous, and legible 13076  
condition at all times, shall appear on both sides of the vehicle 13077  
body of all vehicles transporting fresh water fish in this state 13078  
when the fish are for sale or sold, except those fish exempt from 13079  
a transportation permit in divisions (A), (B), and (E) of this 13080  
section. 13081

The chief may refuse to issue a permit to any person whose 13082  
purpose in applying for the permit is to allow it to be used by 13083  
another person to whom a permit has been refused or revoked. The 13084  
chief also may revoke a person's permit when it is used for that 13085  
purpose. 13086

No civil action may be brought in any court in the state for 13087  
the value or agreed price of fish that have escheated to the state 13088  
under this section. 13089

No person shall fail to comply with any provision of this 13090  
section or a division rule adopted pursuant thereto. 13091

In addition to other penalties provided in the Revised Code, 13092

the permit of any person who is convicted of two violations of 13093  
this section that occurred within a twelve-month period is 13094  
suspended upon the second such conviction by operation of law for 13095  
a period of five fishing season days immediately following that 13096  
conviction. 13097

In addition to other penalties provided in the Revised Code, 13098  
the permit of any person who is convicted of three or more 13099  
violations of this section that occurred within a twelve-month 13100  
period is suspended upon the third or subsequent conviction by 13101  
operation of law for a period of twenty fishing season days 13102  
immediately following that conviction. 13103

During any period of suspension, no person shall use or 13104  
engage in hauling or transporting fish with equipment owned, used, 13105  
or controlled at the time of conviction by the permittee whose 13106  
permit has been suspended. 13107

**Sec. 1533.32.** Except as provided in this section or division 13108  
(A) or (C) of section 1533.12 of the Revised Code, no person, 13109  
including nonresidents, shall take or catch any fish by angling in 13110  
any of the waters in the state or engage in fishing in those 13111  
waters without a license. No person shall take or catch frogs or 13112  
turtles without a valid fishing license, except as provided in 13113  
this section. Persons fishing in privately owned ponds, lakes, or 13114  
reservoirs to or from which fish are not accustomed to migrate are 13115  
exempt from the license requirements set forth in this section. 13116  
Persons fishing in privately owned ponds, lakes, or reservoirs 13117  
that are open to public fishing through an agreement or lease with 13118  
the division of wildlife shall comply with the license 13119  
requirements set forth in this section. 13120

The fee for an annual license shall be ~~twenty-three~~ 13121  
thirty-nine dollars, unless otherwise provided by division rule, 13122  
for a resident of a state that is not a party to an agreement 13123

under section 1533.91 of the Revised Code. The fee for an annual 13124  
license shall be ~~fourteen~~ eighteen dollars, unless otherwise 13125  
provided by division rule, for a resident of a state that is a 13126  
party to such an agreement. The fee for an annual license for 13127  
residents of this state shall be ~~fourteen~~ eighteen dollars unless 13128  
otherwise provided by division rule or unless the rules adopted 13129  
under division (B) of section 1533.12 of the Revised Code provide 13130  
for issuance of a resident fishing license to the applicant free 13131  
of charge. 13132

Any person under the age of sixteen years may take or catch 13133  
frogs and turtles and take or catch fish by angling without a 13134  
license. Any resident of this state sixty-six years of age or 13135  
older may take or catch frogs and turtles without a license. 13136

The chief of the division of wildlife may issue a tourist's 13137  
license expiring three days from the effective date of the license 13138  
to a resident of a state that is not a party to an agreement under 13139  
section 1533.91 of the Revised Code. The fee for a tourist's 13140  
license shall be ~~fourteen~~ eighteen dollars unless otherwise 13141  
provided by division rule. 13142

The chief shall adopt rules under section 1531.10 of the 13143  
Revised Code providing for the issuance of a one-day fishing 13144  
license to a resident of this state or of any other state. The fee 13145  
for such a license shall be ~~forty~~ fifty-five per cent of the 13146  
amount established under this section for a tourist's license, 13147  
rounded up to the nearest whole dollar. A one-day fishing license 13148  
shall allow the holder to take or catch fish by angling in the 13149  
waters in the state, engage in fishing in those waters, or take or 13150  
catch frogs or turtles in those waters for one day without 13151  
obtaining an annual license or a tourist's license under this 13152  
section. At the request of a holder of a one-day fishing license 13153  
who wishes to obtain an annual license, a clerk or agent 13154  
authorized to issue licenses under section 1533.13 of the Revised 13155



Code, not later than the last day on which the one-day license 13156  
would be valid if it were an annual license, shall credit the 13157  
amount of the fee paid for the one-day license toward the fee 13158  
charged for the annual license if so authorized by the chief. The 13159  
clerk or agent shall issue the annual license upon presentation of 13160  
the one-day license and payment of a fee in an amount equal to the 13161  
difference between the fee for the annual license and the fee for 13162  
the one-day license. 13163

A fee of one dollar for each license issued under this 13164  
section shall be paid to the issuing clerk or agent in accordance 13165  
with section 1533.13 of the Revised Code unless otherwise provided 13166  
by division rule. 13167

Unless otherwise provided by division rule, each annual 13168  
license shall begin on the first day of March of the current year 13169  
and expire on the last day of February of the following year. 13170

No person shall alter a fishing license or possess a fishing 13171  
license that has been altered. 13172

No person shall procure or attempt to procure a fishing 13173  
license by fraud, deceit, misrepresentation, or any false 13174  
statement. 13175

Owners of land over, through, upon, or along which any water 13176  
flows or stands, except where the land is in or borders on state 13177  
parks or state-owned lakes, together with the members of the 13178  
immediate families of such owners, may take frogs and turtles and 13179  
may take or catch fish of the kind permitted to be taken or caught 13180  
therefrom without procuring a license provided for in this 13181  
section. This exemption extends to tenants actually residing upon 13182  
such lands and to the members of the immediate families of the 13183  
tenants. Residents of state or county institutions, charitable 13184  
institutions, and military homes in this state may take frogs and 13185  
turtles without procuring the required license, provided that a 13186

member of the institution or home has an identification card, 13187  
which shall be carried on that person when fishing. 13188

Every fisher required to be licensed, while fishing or taking 13189  
or attempting to take frogs or turtles, shall carry the license 13190  
and exhibit it to any person. Failure to so carry and exhibit the 13191  
license constitutes an offense under this section. 13192

**Sec. 1533.35.** (A) Commercial fishing devices shall be 13193  
annually licensed as follows: 13194

(1) Trap and fyke nets, for the first twenty nets or any 13195  
portion thereof, eight hundred dollars; and for each additional 13196  
group of ten such nets or any portion thereof, four hundred 13197  
dollars; 13198

(2) For each seine of one hundred fifty rods or less in 13199  
length other than an inland fishing district seine, four hundred 13200  
dollars; 13201

(3) For each seine over one hundred fifty rods in length 13202  
other than an inland fishing district seine, six hundred dollars; 13203

(4) For each inland fishing district seine, one hundred 13204  
dollars; 13205

(5) For each carp apron, one hundred dollars; 13206

(6) For one trotline with seventy hooks or less attached 13207  
thereto, twenty dollars; 13208

(7) For each trotline, or trotlines, with a total of more 13209  
than seventy hooks attached thereto, one hundred dollars; 13210

(8) For each dip net, one hundred dollars. 13211

The license fee for other commercial fishing gear not 13212  
mentioned in this section, as approved by the chief of the 13213  
division of wildlife, shall be set by the chief with approval of 13214  
the wildlife council. 13215

Commercial fishing gear owned or used by a nonresident may be 13216  
licensed in this state only if a reciprocal agreement is in effect 13217  
as provided for in section 1533.352 of the Revised Code. 13218

All commercial license fees shall be paid upon application or 13219  
shall be paid one-fourth upon application with the balance due and 13220  
owing within ninety days of the date of application, except that 13221  
those license fees of one hundred dollars or less shall be paid in 13222  
full at the time of application. 13223

(B) Royalty fees are hereby established ~~as set forth~~ on the 13224  
following species of fish when taken commercially: catfish, white 13225  
bass, and yellow perch. 13226

The amount of the royalty fees shall be as follows: on the 13227  
species taken for which an allowable catch or quota has been 13228  
established by division rule, ~~two~~ five cents per pound. On the 13229  
species taken for which an allowable catch or quota has not been 13230  
established by division rule, ~~one cent~~ two cents per pound ~~on that~~ 13231  
~~portion taken that exceeds one half of the previous year's taking~~ 13232  
~~of the species.~~ 13233

~~For the purpose of this section, the previous year's taking~~ 13234  
~~shall be the amount reported for that previous year by the license~~ 13235  
~~holder to the division pursuant to reporting procedures set forth~~ 13236  
~~in this chapter and Chapter 1531. of the Revised Code.~~ 13237

All royalty fees established or provided for in this section 13238  
shall be paid by the license holder to the division. No person may 13239  
be issued a commercial fishing license until all royalty fees due 13240  
from that person for the preceding fishing season have been paid 13241  
in full. The chief may request the attorney general to recover any 13242  
royalty fee or amount thereof that is not paid by the opening date 13243  
of the next fishing season, and the attorney general shall 13244  
commence appropriate legal proceedings to recover the unpaid fee 13245  
or amount. 13246

All commercial fishing license moneys and all other fees 13247  
collected from commercial ~~fishermen~~ fishers shall be deposited in 13248  
the state treasury in accordance with section 1533.33 of the 13249  
Revised Code. 13250

No person shall fail to comply with any provision of this 13251  
section or a division rule adopted pursuant to it. 13252

In addition to other penalties provided in the Revised Code, 13253  
the license of any person who is convicted of one or more 13254  
violations of this section shall be suspended upon the conviction 13255  
by operation of law for a period of eighteen fishing season months 13256  
immediately following the conviction. 13257

During any period of suspension, no person shall use or 13258  
engage in fishing with commercial gear owned, used, or controlled 13259  
at the time of conviction by the licensee whose license has been 13260  
suspended. 13261

**Sec. 1533.40.** Each person, firm, partnership, association, or 13262  
corporation ~~which~~ that buys, sells, or deals in minnows, crayfish, 13263  
or hellgrammites or collects the listed species for sale shall 13264  
obtain, annually, from the chief of the division of wildlife a 13265  
permit and shall operate under such rules as the chief ~~of the~~ 13266  
~~division of wildlife prescribes~~ adopts. ~~Such~~ A permit shall be 13267  
issued upon application and the payment of a fee of ~~twenty-five~~ 13268  
forty dollars. This permit expires at midnight, on the 13269  
thirty-first day of December ~~31~~. Nonresidents engaging in the 13270  
collecting, seining, or picking of minnows, crayfish, or 13271  
hellgrammites for bait shall have a nonresident fishing license as 13272  
prescribed in section 1533.32 of the Revised Code. 13273

**Sec. 1533.54.** No person shall draw, set, place, locate, 13274  
maintain, or possess a pound net, crib net, trammel net, fyke net, 13275  
set net, seine, bar net, or fish trap, or any part thereof, or 13276

throw or hand line, with more than three hooks attached thereto, 13277  
or any other device for catching fish, except a line with not more 13278  
than three hooks attached thereto or lure with not more than three 13279  
sets of three hooks each, in the inland fishing district of this 13280  
state, except for taking carp, mullet, sheepshead, and grass pike 13281  
as provided in section 1533.62 of the Revised Code, and except as 13282  
provided in section 1533.60 of the Revised Code, or as otherwise 13283  
provided for by division rule. No person shall catch or kill a 13284  
fish in that fishing district with what are known as bob lines, 13285  
trotlines, or float lines, or by grabbing with the hands, or by 13286  
spearing or shooting, or with any other device other than by 13287  
angling. In the waters of the inland fishing district, except 13288  
those lakes, harbors, and reservoirs controlled by the state, a 13289  
trotline may be used with not more than fifty hooks, and no two 13290  
hooks less than three feet apart, by the owner or person having 13291  
the owner's consent in that part of the stream bordering on or 13292  
running through that owner's lands. 13293

Notwithstanding this section, any resident who is licensed to 13294  
fish with nets in the Ohio river may possess fish nets for the 13295  
sole purpose of storage, repair, drying, and tarring in the area 13296  
between United States route fifty and the Ohio river from the 13297  
Indiana state line to Cincinnati, Ohio, and in the area between 13298  
United States route fifty-two and the Ohio river from Cincinnati, 13299  
Ohio, to Chesapeake, Ohio, and in the area between state route 13300  
seven and the Ohio river from Chesapeake, Ohio, to East Liverpool, 13301  
Ohio. 13302

Any person possessing a net in this reserve district shall 13303  
have an Ohio permit for each net in ~~his~~ the person's possession. 13304  
The permit shall be issued annually by the chief of the division 13305  
of wildlife upon application of the owner of the net and 13306  
submission of evidence by ~~him~~ the owner of ~~his~~ possession of a 13307  
valid fishing license permitting ~~him~~ the owner to fish with nets 13308

in the Ohio river, and the payment of ~~ten~~ fifty dollars for each 13309  
net for which an application is made and a permit is issued. The 13310  
permit shall expire at twelve midnight on the fifteenth day of 13311  
March of each year. 13312

**Sec. 1533.631.** Any person may apply for a permit to handle 13313  
commercial fish, or other fish that may be bought or sold under 13314  
the Revised Code or division rule, at wholesale. The chief of the 13315  
division of wildlife shall issue an annual permit granting the 13316  
applicant the privilege to handle such fish at wholesale at one or 13317  
more designated premises upon filing of an application on a form 13318  
prescribed by the chief and payment of a fee of ~~fifty~~ sixty-five 13319  
dollars. No person or ~~his~~ a person's agent shall handle at 13320  
wholesale any fresh water fish or part thereof unless a permit has 13321  
been issued for the calendar year in which the fish is handled at 13322  
wholesale for the premises at which the fish is handled. 13323

A fish is handled at wholesale for purposes of this section 13324  
when it is on a premises within the state and is being held, 13325  
stored, handled, or processed for the purpose of sale to a person 13326  
who ordinarily resells the fish. 13327

The permit required by this section shall be issued subject 13328  
to the right of entry and inspection of the designated premises of 13329  
the permittee by any law enforcement officer authorized by section 13330  
1531.13 of the Revised Code to enforce the laws and rules of the 13331  
division of wildlife. Such an officer may enter and inspect the 13332  
designated premises and any box, package, or receptacle, and the 13333  
contents thereof, for the purpose of determining whether any 13334  
provision of this chapter or Chapter 1531. of the Revised Code or 13335  
division rule is being violated. 13336

No person holding a permit under this section shall remove a 13337  
label required by section 1533.301 of the Revised Code unless the 13338  
box, package, or receptacle bearing the label has been opened or 13339

unless the label is replaced with another label that meets the 13340  
requirements of that section. 13341

No person shall fail to comply with any provision of this 13342  
section or division rule adopted pursuant to it. 13343

In addition to other penalties provided in the Revised Code, 13344  
the permit of any person who is convicted of two violations of 13345  
this section that occurred within a twelve-month period is 13346  
suspended upon the second such conviction by operation of law for 13347  
a period of five fishing season days immediately following that 13348  
conviction. 13349

In addition to other penalties provided in the Revised Code, 13350  
the permit of any person who is convicted of three or more 13351  
violations of this section that occurred within a twelve-month 13352  
period is suspended upon the third or subsequent such conviction 13353  
by operation of law for a period of twenty fishing season days 13354  
immediately following that conviction. 13355

During any period of suspension, no person shall use or 13356  
engage in handling commercial fish at wholesale with equipment or 13357  
facilities owned, used, or controlled at the time of conviction by 13358  
the permittee whose permit has been suspended. 13359

**Sec. 1533.632.** (A) As used in this section: 13360

(1) "Aquaculture" means a form of agriculture that involves 13361  
the propagation and rearing of aquatic species in controlled 13362  
environments under private control, including, but not limited to, 13363  
for the purpose of sale for consumption as food. 13364

(2) "Aquaculture species" means any aquatic species that may 13365  
be raised through aquaculture that is either a class A aquaculture 13366  
species or a class B aquaculture species. 13367

(3) "Class A aquaculture species" includes all of the 13368  
following: 13369

(a) Trout and salmon ( <i>Onchorhynchus</i> sp., <i>Salmo</i> sp., <i>Salvelinus</i> sp.);	13370 13371
(b) Walleye ( <i>Stizostedion vitreum</i> );	13372
(c) Sauger ( <i>Stizostedion canadense</i> );	13373
(d) Bluegill ( <i>Lepomis machrochirus</i> );	13374
(e) Redear sunfish ( <i>Lepomis microlophus</i> );	13375
(f) Green sunfish ( <i>Lepomis cyanellus</i> );	13376
(g) White crappie ( <i>Pomoxis annularis</i> );	13377
(h) Black crappie ( <i>Pomoxis nigromaculatus</i> );	13378
(i) Blue catfish ( <i>Ictalurus furcatus</i> );	13379
(j) Any species added by rule under division (B) of this section or listed as commercial fish under section 1531.01 of the Revised Code except white perch ( <i>Morone americana</i> ).	13380 13381 13382
(4) "Class B aquaculture species" includes any species, except for class A aquaculture species, designated as such by the chief of the division of wildlife.	13383 13384 13385
(5) "Aquaculture production facility" means a facility used for aquaculture.	13386 13387
(B) The chief, in accordance with Chapter 119. of the Revised Code, shall adopt rules for the regulation of aquaculture and may issue permits to persons wishing to engage in aquaculture for the production of aquaculture species. Rules adopted under this section shall ensure the protection and preservation of the wildlife and natural resources of this state. The legal length and weight limitations established under section 1533.63 of the Revised Code do not apply to class A or class B aquaculture species.	13388 13389 13390 13391 13392 13393 13394 13395 13396
A permit may be issued upon application to any person who satisfies the chief that the person has suitable equipment, of	13397 13398



which ~~he~~ the person is the owner or lessee, to engage in 13399  
aquaculture for a given aquaculture species or group of 13400  
aquaculture species. Each permit shall be in such form as the 13401  
chief prescribes. The permits shall be classified as either class 13402  
A or class B. A class A permit shall be required for all class A 13403  
aquaculture species that are specified in this section or 13404  
designated by rule as a class A aquaculture species. Class B 13405  
permits shall be issued on a case-by-case basis. In determining 13406  
whether to issue a class B permit, the chief shall take into 13407  
account the species for which the class B permit is requested, the 13408  
location of the aquaculture production facility, and any other 13409  
information determined by the chief to be necessary to protect the 13410  
wildlife and natural resources of this state. The annual fee for a 13411  
class A permit shall be fifty dollars unless otherwise provided by 13412  
rule by the chief. The annual fee for a class B permit shall be 13413  
set by the chief at a level between one hundred and five hundred 13414  
dollars. In determining the fee to be charged for a class B 13415  
permit, the chief shall take into account the additional costs to 13416  
the division for the inspection of aquaculture facilities used to 13417  
raise a given class B aquaculture species. 13418

The chief may revoke a permit upon a determination that the 13419  
person to whom the permit was issued has violated any rule adopted 13420  
under this section. The permit shall be reissued upon a showing by 13421  
the person that ~~he~~ the person is in compliance with the rules 13422  
adopted under this section. A holder of an aquaculture permit may 13423  
receive a permit issued under section 1533.301, ~~1533.39~~, or 13424  
1533.40 of the Revised Code without payment of the fee for that 13425  
permit if the conditions for the issuance of the permit have been 13426  
met. 13427

(C) No person shall knowingly sell any aquatic species under 13428  
an aquaculture permit issued under this section that was not 13429  
raised in an aquaculture production facility. In addition to any 13430

other penalties prescribed for violation of this division, the 13431  
chief may revoke the permit of any person convicted of a violation 13432  
of this division for any period of time ~~he~~ the chief considers 13433  
necessary. 13434

(D) No person who does not hold a current valid aquaculture 13435  
permit shall knowingly sell an aquaculture species while claiming 13436  
to possess an aquaculture permit. 13437

**Sec. 1533.71.** Unless otherwise provided by division rule, any 13438  
person desiring to engage in the business of raising and selling 13439  
game birds, game quadrupeds, reptiles, amphibians, or fur-bearing 13440  
animals in a wholly enclosed preserve of which the person is the 13441  
owner or lessee, or to have game birds, game quadrupeds, reptiles, 13442  
amphibians, or fur-bearing animals in captivity, shall apply in 13443  
writing to the division of wildlife for a license to do so. 13444

The division, when it appears that the application is made in 13445  
good faith and upon the payment of the fee for each license, ~~shall~~ 13446  
may issue to the applicant any of the following licenses that may 13447  
be applied for: 13448

(A) "Commercial propagating license" permitting the licensee 13449  
to propagate game birds, game quadrupeds, reptiles, amphibians, or 13450  
fur-bearing animals in the wholly enclosed preserve the location 13451  
of which is stated in the license and the application therefor, 13452  
and to sell the propagated game birds, game quadrupeds, reptiles, 13453  
amphibians, or fur-bearing animals and ship them from the state 13454  
alive at any time, and permitting the licensee and the licensee's 13455  
employees to kill the propagated game birds, game quadrupeds, or 13456  
fur-bearing animals and sell the carcasses for food subject to 13457  
sections 1533.70 to 1533.80 of the Revised Code. The fee for such 13458  
a license is ~~twenty-five~~ forty dollars per annum. 13459  
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(B) "Noncommercial propagating license" permitting the 13461

licensee to propagate game birds, game quadrupeds, reptiles, 13462  
amphibians, or fur-bearing animals and to hold the animals in 13463  
captivity. Game birds, game quadrupeds, reptiles, amphibians, and 13464  
fur-bearing animals propagated or held in captivity by authority 13465  
of a noncommercial propagating license are for the licensee's own 13466  
use and shall not be sold. The fee for such a license is ~~ten~~ 13467  
twenty-five dollars per annum. 13468

(C) A free "raise to release license" permitting duly 13469  
organized clubs, associations, or individuals approved by the 13470  
division to engage in the raising of game birds, game quadrupeds, 13471  
or fur-bearing animals for release only and not for sale or 13472  
personal use. 13473

Except as provided by law, no person shall possess game 13474  
birds, game quadrupeds, or fur-bearing animals in closed season, 13475  
provided that municipal or governmental zoological parks are not 13476  
required to obtain the licenses provided for in this section. 13477

All licenses issued under this section shall expire on the 13478  
fifteenth day of March of each year. 13479

The chief of the division of wildlife shall pay all moneys 13480  
received as fees for the issuance of licenses under this section 13481  
into the state treasury to the credit of the fund created by 13482  
section 1533.15 of the Revised Code for the use of the division in 13483  
the purchase, preservation, and protection of wild animals and for 13484  
the necessary clerical help and forms required by sections 1533.70 13485  
to 1533.80 of the Revised Code. 13486

This section does not authorize the taking or the release for 13487  
taking of the following: 13488

(1) Game birds, without first obtaining a commercial bird 13489  
shooting preserve license issued under section 1533.72 of the 13490  
Revised Code; 13491

(2) Game or nonnative wildlife, without first obtaining a 13492

wild animal hunting preserve license issued under section 1533.721 13493  
of the Revised Code. 13494

**Sec. 1533.82.** (A) On receipt of a notice pursuant to section 13495  
3123.43 of the Revised Code, the chief of the division of wildlife 13496  
shall comply with sections 3123.41 to 3123.50 of the Revised Code 13497  
and any applicable rules adopted under section 3123.63 of the 13498  
Revised Code with respect to a license, permit, or certificate 13499  
issued pursuant to section 1533.23, 1533.34, 1533.342, ~~1533.39,~~ 13500  
1533.40, 1533.51, 1533.631, 1533.71, 1533.72, 1533.81, 1533.88, or 13501  
1533.881 of the Revised Code. 13502

(B) On receipt of a notice pursuant to section 3123.62 of the 13503  
Revised Code, the chief shall comply with that section and any 13504  
applicable rules adopted under section 3123.63 of the Revised Code 13505  
with respect to a license, permit, or stamp issued pursuant to 13506  
section 1533.10, 1533.11, 1533.111, 1533.112, or 1533.32 of the 13507  
Revised Code. 13508

**Sec. 1541.10.** Any person selected by the chief of the 13509  
division of parks and recreation for custodial or patrol service 13510  
on the lands and waters operated or administered by the division 13511  
of parks and recreation shall be employed in conformity with the 13512  
law applicable to the classified civil service of the state. 13513  
Subject to section 1541.11 of the Revised Code, the chief may 13514  
designate that person as a park officer. A park officer, on any 13515  
lands and waters owned, controlled, maintained, or administered by 13516  
the department of natural resources and on highways, as defined in 13517  
section 4511.01 of the Revised Code, adjacent to lands and waters 13518  
owned, controlled, maintained, or administered by the division, 13519  
has the authority specified under section 2935.03 of the Revised 13520  
Code for peace officers of the department of natural resources to 13521  
keep the peace, to enforce all laws and rules governing those 13522  
lands and waters, and to make arrests for violation of those laws 13523

and rules, provided that the authority shall be exercised on lands 13524  
or waters administered by another division of the department only 13525  
pursuant to an agreement with the chief of that division or to a 13526  
request for assistance by an enforcement officer of that division 13527  
in an emergency. A park officer, in or along any watercourse 13528  
within, abutting, or upstream from the boundary of any area 13529  
administered by the department, has the authority to enforce 13530  
section 3767.32 of the Revised Code and any other laws prohibiting 13531  
the dumping of refuse into or along waters and to make arrests for 13532  
violation of those laws. The jurisdiction of park officers shall 13533  
be concurrent with that of the peace officers of the county, 13534  
township, or municipal corporation in which the violation occurs. 13535  
A state park, for purposes of this section, is any area that is 13536  
administered as a state park by the division of parks and 13537  
recreation. 13538

The ~~governor~~ secretary of state, upon the recommendation of 13539  
the chief, shall issue to each park officer a commission 13540  
indicating authority to make arrests as provided in this section. 13541

The chief shall furnish a suitable badge to each commissioned 13542  
park officer as evidence of that park officer's authority. 13543

If any person employed under this section is designated by 13544  
the chief to act as an agent of the state in the collection of 13545  
moneys resulting from the sale of licenses, fees of any nature, or 13546  
other moneys belonging to the state, the chief shall require a 13547  
surety bond from that person in an amount not less than one 13548  
thousand dollars. 13549

A park officer may render assistance to a state or local law 13550  
enforcement officer at the request of that officer or may render 13551  
assistance to a state or local law enforcement officer in the 13552  
event of an emergency. 13553

Park officers serving outside the division of parks and 13554

recreation under this section or serving under the terms of a 13555  
mutual aid compact authorized under section 1501.02 of the Revised 13556  
Code shall be considered as performing services within their 13557  
regular employment for the purposes of compensation, pension or 13558  
indemnity fund rights, workers' compensation, and other rights or 13559  
benefits to which they may be entitled as incidents of their 13560  
regular employment. 13561

Park officers serving outside the division of parks and 13562  
recreation under this section or under a mutual aid compact retain 13563  
personal immunity from civil liability as specified in section 13564  
9.86 of the Revised Code and shall not be considered an employee 13565  
of a political subdivision for purposes of Chapter 2744. of the 13566  
Revised Code. A political subdivision that uses park officers 13567  
under this section or under the terms of a mutual aid compact 13568  
authorized under section 1501.02 of the Revised Code is not 13569  
subject to civil liability under Chapter 2744. of the Revised Code 13570  
as the result of any action or omission of any park officer acting 13571  
under this section or under a mutual aid compact. 13572

**Sec. 1563.42.** The operator of a mine, before the pillars are 13573  
drawn previous to the abandonment of any part of the mine, shall 13574  
have a correct map of such part of the mine made, showing its area 13575  
and workings to the day of the abandonment and the pillars drawn 13576  
previous to abandonment, and file such map within ninety days 13577  
after the abandonment of such mine, in the office of the county 13578  
recorder of the county where such mine is located, and with the 13579  
chief of the division of mineral resources management. Such map 13580  
shall have attached the usual certificate of the mining engineer 13581  
making it, and the mine foreperson in charge of the underground 13582  
workings of the mine, and such operator shall pay to the recorder 13583  
for filing such map, a base fee of five dollars for services and a 13584  
housing trust fee of five dollars pursuant to section 317.36 of 13585  
the Revised Code. 13586

No operator of a mine shall refuse or neglect to comply with 13587  
this section. 13588

**Sec. 1702.59.** (A) Every nonprofit corporation, incorporated 13589  
under the general corporation laws of this state, or previous 13590  
laws, or under special provisions of the Revised Code, or created 13591  
before September 1, 1851, which corporation has expressly or 13592  
impliedly elected to be governed by the laws passed since that 13593  
date, and whose articles or other documents are filed with the 13594  
secretary of state, shall file with the secretary of state a 13595  
verified statement of continued existence, signed by a director, 13596  
officer, or three members in good standing, setting forth the 13597  
corporate name, the place where the principal office of the 13598  
corporation is located, the date of incorporation, the fact that 13599  
the corporation is still actively engaged in exercising its 13600  
corporate privileges, and the name and address of its agent 13601  
appointed pursuant to section 1702.06 of the Revised Code. 13602

(B) Each corporation required to file a statement of 13603  
continued existence shall file it with the secretary of state 13604  
within each five years after the date of incorporation or of the 13605  
last corporate filing. 13606

(C) Corporations specifically exempted by division (N) of 13607  
section 1702.06 of the Revised Code, or whose activities are 13608  
regulated or supervised by another state official, agency, bureau, 13609  
department, or commission are exempted from this section. 13610

(D) The secretary of state shall give notice in writing and 13611  
provide a form for compliance with this section to each 13612  
corporation required by this section to file the statement of 13613  
continued existence, such notice and form to be mailed to the last 13614  
known address of the corporation as it appears on the records of 13615  
the secretary of state or which the secretary of state may 13616  
ascertain upon a reasonable search. 13617

(E) If any nonprofit corporation required by this section to file a statement of continued existence fails to file the statement required every fifth year, then the secretary of state shall cancel the articles of such corporation, make a notation of the cancellation on the records, and mail to the corporation a certificate of the action so taken.

(F) A corporation whose articles have been canceled may be reinstated by filing an application for reinstatement and paying to the secretary of state the fee specified in division (Q) of section 111.16 of the Revised Code. The name of a corporation whose articles have been canceled shall be reserved for a period of one year after the date of cancellation. If the reinstatement is not made within one year from the date of the cancellation of its articles of incorporation and it appears that a corporate name, limited liability company name, limited liability partnership name, limited partnership name, or trade name has been filed, the name of which is not distinguishable upon the record as provided in section 1702.06 of the Revised Code, the applicant for reinstatement shall be required by the secretary of state, as a condition prerequisite to such reinstatement, to amend its articles by changing its name. A certificate of reinstatement may be filed in the recorder's office of any county in the state, for which the recorder shall charge and collect a base fee of one dollar for services and a housing trust fund fee of one dollar pursuant to section 317.36 of the Revised Code. The rights, privileges, and franchises of a corporation whose articles have been reinstated are subject to section 1702.60 of the Revised Code.

(G) The secretary of state shall furnish the tax commissioner a list of all corporations failing to file the required statement of continued existence.



**Sec. 1711.13.** County agricultural societies are hereby 13649  
declared bodies corporate and politic, and as such they shall be 13650  
capable of suing and being sued and of holding in fee simple any 13651  
real estate purchased by them as sites for their fairs. ~~They~~ In 13652  
addition, they may mortgage do either or both of the following: 13653

(A) Mortgage their grounds for the purpose of renewing or 13654  
extending pre-existing debts, and for the purpose of furnishing 13655  
money to purchase additional land<sup>+</sup>, but if the board of county 13656  
commissioners has caused money to be paid out of the county 13657  
treasury to aid in the purchase of ~~such~~ the grounds, no mortgage 13658  
shall be given without the consent of ~~such~~ the board. 13659

Deeds, conveyances, and agreements in writing, made to and by 13660  
such societies, for the purchase of real estate as sites for their 13661  
fairs, shall vest a title in fee simple to the real estate ~~therein~~ 13662  
described in those documents, without words of inheritance. 13663

(B) Enter into agreements to obtain loans and credit for 13664  
expenses related to the purposes of the county agricultural 13665  
society, provided that the agreements are in writing and are first 13666  
approved by the board of directors of the society. The total net 13667  
indebtedness incurred by a county agricultural society pursuant to 13668  
this division shall not exceed an amount equal to twenty-five per 13669  
cent of its annual revenues. 13670

**Sec. 1711.131.** (A) The board of directors of a county 13671  
agricultural society or an independent agricultural society may 13672  
authorize by resolution an officer or employee of the agricultural 13673  
society to use a credit card held by the board to pay for expenses 13674  
related to the purposes of the agricultural society. If a board 13675  
elects to authorize the use of a credit card held by the board as 13676  
described in this section, the board first shall adopt a policy 13677  
specifying the purposes for which the credit card may be used. 13678

(B) An officer or employee of an agricultural society who makes unauthorized use of a credit card held by the society's board of directors is personally liable for the unauthorized use. 13679  
The prosecuting attorney of the appropriate county shall recover the amount of any unauthorized expenses incurred by the officer or employee through the misuse of the credit card in a civil action in any court of competent jurisdiction. This section does not limit any other liability of the officer or employee for the unauthorized use of a credit card held by the board of directors. 13680  
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(C) An officer or employee who is authorized to use a credit card held by the board of directors of an agricultural society and who suspects the loss, theft, or possibility of unauthorized use of the credit card immediately shall notify the board in writing of the suspected loss, theft, or possible unauthorized use. The officer or employee may be held personally liable for not more than fifty dollars in unauthorized debt incurred before the board receives the notification. 13688  
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(D) The misuse by an officer or employee of an agricultural society of a credit card held by the society's board of directors is a violation of section 2913.21 of the Revised Code. 13696  
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**Sec. 1711.15.** In any county in which there is a duly organized county agricultural society, the board of county commissioners or the county agricultural society itself may purchase or lease, for a term of not less than twenty years, real estate on which to hold fairs under the management and control of the county agricultural society, and may erect ~~thereon~~ suitable buildings on the real estate and otherwise improve it. 13699  
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In counties in which there is a county agricultural society that has purchased, or leased, for a term of not less than twenty years, real estate as a site on which to hold fairs or in which the title to the site is vested in fee in the county, the board of 13706  
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county commissioners may erect or repair buildings or otherwise 13710  
improve the site and pay the rental ~~thereof~~ of it, or contribute 13711  
to or pay any other form of indebtedness of the society, if the 13712  
director of agriculture has certified to the board that the county 13713  
agricultural society is complying with all laws and rules 13714  
governing the operation of county agricultural societies. The 13715  
board may appropriate from the general fund any amount that it 13716  
considers necessary for any of those purposes. 13717

**Sec. 1711.17.** (A) In any counties in which there is a duly 13718  
organized independent agricultural society, the respective boards 13719  
of county commissioners may purchase or lease jointly, for a term 13720  
of not less than twenty years, real estate on which to hold fairs 13721  
under the management and control of the society, and may erect 13722  
suitable buildings and otherwise improve the property, and pay the 13723  
rental thereof, or contribute to or pay any other form of 13724  
indebtedness of the society, if the director of agriculture has 13725  
certified to the board that the independent agricultural society 13726  
is complying with all laws and rules governing the operation of 13727  
county agricultural societies. The boards may appropriate from 13728  
their respective general funds such an amount as they consider 13729  
necessary for any of those purposes. 13730

(B) An independent agricultural society may purchase or 13731  
lease, for a term of not less than twenty years, real estate on 13732  
which to hold fairs under its management and control and may erect 13733  
suitable buildings on the real estate and otherwise improve it. 13734

**Sec. 2101.16.** (A) The fees enumerated in this division shall 13735  
be charged and collected, if possible, by the probate judge and 13736  
shall be in full for all services rendered in the respective 13737  
proceedings: 13738

- (1) Account, in addition to advertising charges ..... \$12.00 13739
- Waivers and proof of notice of hearing on account, per 13740

page, minimum one dollar .....	\$ 1.00	13741
(2) Account of distribution, in addition to advertising charges .....	\$ 7.00	13742 13743
(3) Adoption of child, petition for .....	\$50.00	13744
(4) Alter or cancel contract for sale or purchase of real estate, petition to .....	\$20.00	13745 13746
(5) Application and order not otherwise provided for in this section or by rule adopted pursuant to division (E) of this section .....	\$ 5.00	13747 13748 13749
(6) Appropriation suit, per day, hearing in .....	\$20.00	13750
(7) Birth, application for registration of .....	\$ 7.00	13751
(8) Birth record, application to correct .....	\$ 5.00	13752
(9) Bond, application for new or additional .....	\$ 5.00	13753
(10) Bond, application for release of surety or reduction of .....	\$ 5.00	13754 13755
(11) Bond, receipt for securities deposited in lieu of ....	\$ 5.00	13756
(12) Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar .....	\$ 1.00	13757 13758
(13) Citation and issuing citation, application for .....	\$ 5.00	13759
(14) Change of name, petition for .....	\$20.00	13760
(15) Claim, application of administrator or executor for allowance of administrator's or executor's own .....	\$10.00	13761 13762
(16) Claim, application to compromise or settle .....	\$10.00	13763
(17) Claim, authority to present .....	\$10.00	13764
(18) Commissioner, appointment of .....	\$ 5.00	13765
(19) Compensation for extraordinary services and attorney's fees for fiduciary, application for .....	\$ 5.00	13766 13767
(20) Competency, application to procure adjudication of ...	\$20.00	13768
(21) Complete contract, application to .....	\$10.00	13769
(22) Concealment of assets, citation for .....	\$10.00	13770
(23) Construction of will, petition for .....	\$20.00	13771
(24) Continue decedent's business, application to .....	\$10.00	13772
Monthly reports of operation .....	\$ 5.00	13773

(25) Declaratory judgment, petition for .....	\$20.00	13774
(26) Deposit of will .....	\$ 5.00	13775
(27) Designation of heir .....	\$20.00	13776
(28) Distribution in kind, application, assent, and order for .....	\$ 5.00	13777 13778
(29) Distribution under section 2109.36 of the Revised Code, application for an order of .....	\$ 7.00	13779 13780
(30) Docketing and indexing proceedings, including the filing and noting of all necessary documents, maximum fee, fifteen dollars .....	\$15.00	13781 13782 13783
(31) Exceptions to any proceeding named in this section, contest of appointment or .....	\$10.00	13784 13785
(32) Election of surviving partner to purchase assets of partnership, proceedings relating to .....	\$10.00	13786 13787
(33) Election of surviving spouse under will .....	\$ 5.00	13788
(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	13789 13790 13791
(35) Foreign will, application to record .....	\$10.00	13792
Record of foreign will, additional, per page .....	\$ 1.00	13793
(36) Forms when supplied by the probate court, not to exceed .....	\$10.00	13794 13795
(37) Heirship, petition to determine .....	\$20.00	13796
(38) Injunction proceedings .....	\$20.00	13797
(39) Improve real estate, petition to .....	\$20.00	13798
(40) Inventory with appraisalment .....	\$10.00	13799
(41) Inventory without appraisalment .....	\$ 7.00	13800
(42) Investment or expenditure of funds, application for ..	\$10.00	13801
(43) Invest in real estate, application to .....	\$10.00	13802
(44) Lease for oil, gas, coal, or other mineral, petition to .....	\$20.00	13803 13804
(45) Lease or lease and improve real estate, petition to ..	\$20.00	13805
(46) Marriage license .....	\$10.00	13806

	Certified abstract of each marriage .....	\$ 2.00	13807
(47)	Minor or mentally ill person, etc., disposal of estate under ten thousand dollars of .....	\$10.00	13808 13809
(48)	Mortgage or mortgage and repair or improve real estate, petition to .....	\$20.00	13810 13811
(49)	Newly discovered assets, report of .....	\$ 7.00	13812
(50)	Nonresident executor or administrator to bar creditors' claims, proceedings by .....	\$20.00	13813 13814
(51)	Power of attorney or revocation of power, bonding company .....	\$10.00	13815 13816
(52)	Presumption of death, petition to establish .....	\$20.00	13817
(53)	Probating will .....	\$15.00	13818
	Proof of notice to beneficiaries .....	\$ 5.00	13819
(54)	Purchase personal property, application of surviving spouse to .....	\$10.00	13820 13821
(55)	Purchase real estate at appraised value, petition of surviving spouse to .....	\$20.00	13822 13823
(56)	Receipts in addition to advertising charges, application and order to record .....	\$ 5.00	13824 13825
	Record of those receipts, additional, per page .....	\$ 1.00	13826
(57)	Record in excess of fifteen hundred words in any proceeding in the probate court, per page .....	\$ 1.00	13827 13828
(58)	Release of estate by mortgagee or other lienholder ...	\$ 5.00	13829
(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	13830 13831 13832 13833
(60)	Removal of fiduciary, application for .....	\$10.00	13834
(61)	Requalification of executor or administrator .....	\$10.00	13835
(62)	Resignation of fiduciary .....	\$ 5.00	13836
(63)	Sale bill, public sale of personal property .....	\$10.00	13837
(64)	Sale of personal property and report, application for .....	\$10.00	13838 13839

(65) Sale of real estate, petition for .....	\$25.00	13840
(66) Terminate guardianship, petition to .....	\$10.00	13841
(67) Transfer of real estate, application, entry, and certificate for .....	\$ 7.00	13842 13843
(68) Unclaimed money, application to invest .....	\$ 7.00	13844
(69) Vacate approval of account or order of distribution, motion to .....	\$10.00	13845 13846
(70) Writ of execution .....	\$ 5.00	13847
(71) Writ of possession .....	\$ 5.00	13848
(72) Wrongful death, application and settlement of claim for .....	\$20.00	13849 13850
(73) Year's allowance, petition to review .....	\$ 7.00	13851
(74) Guardian's report, filing and review of .....	\$ 5.00	13852
(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.		13853 13854 13855 13856 13857 13858 13859 13860 13861 13862 13863 13864
(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.		13865 13866 13867 13868 13869 13870 13871

If the court finds that the guardian or applicant is indigent, the 13872  
court may waive the costs, fees, and expenses of an investigation. 13873

(C) Thirty dollars of the thirty-five-dollar fee collected 13874  
pursuant to division (A)(34) of this section and twenty dollars of 13875  
the sixty-dollar fee collected pursuant to division (A)(59) of 13876  
this section shall be deposited by the county treasurer in the 13877  
indigent guardianship fund created pursuant to section 2111.51 of 13878  
the Revised Code. 13879

(D) The fees of witnesses, jurors, sheriffs, coroners, and 13880  
constables for services rendered in the probate court or by order 13881  
of the probate judge shall be the same as provided for like 13882  
services in the court of common pleas. 13883

(E) The probate court, by rule, may require an advance 13884  
deposit for costs, not to exceed one hundred twenty-five dollars, 13885  
at the time application is made for an appointment as executor or 13886  
administrator or at the time a will is presented for probate. 13887

(F) The probate court, by rule, shall establish a reasonable 13888  
fee, not to exceed fifty dollars, for the filing of a petition for 13889  
the release of information regarding an adopted person's name by 13890  
birth and the identity of the adopted person's biological parents 13891  
and biological siblings pursuant to section 3107.41 of the Revised 13892  
Code, all proceedings relative to the petition, the entry of an 13893  
order relative to the petition, and all services required to be 13894  
performed in connection with the petition. The probate court may 13895  
use a reasonable portion of a fee charged under authority of this 13896  
division to reimburse any agency, as defined in section 3107.39 of 13897  
the Revised Code, for any services it renders in performing a task 13898  
described in section 3107.41 of the Revised Code relative to or in 13899  
connection with the petition for which the fee was charged. 13900

(G)(1) Thirty dollars of the fifty-dollar fee collected 13901  
pursuant to division (A)(3) of this section shall be deposited 13902



into the "putative father registry fund," which is hereby created 13903  
in the state treasury. The department of job and family services 13904  
shall use the money in the fund to fund the department's costs of 13905  
performing its duties related to the putative father registry 13906  
established under section 3107.062 of the Revised Code. 13907

(2) If the department determines that money in the putative 13908  
father registry fund is more than is needed for its duties related 13909  
to the putative father registry, the department may use the 13910  
surplus moneys in the fund as permitted in division (C) of section 13911  
2151.3529, division (B) of section 2151.3530, or section 5103.155 13912  
of the Revised Code. 13913

Sec. 2113.041. (A) The administrator of the estate recovery 13914  
program established pursuant to section 5111.11 of the Revised 13915  
Code may present an affidavit to a financial institution 13916  
requesting that the financial institution release account proceeds 13917  
to recover the cost of services correctly provided to a medicaid 13918  
recipient. The affidavit shall include all of the following 13919  
information: 13920

(1) The name of the decedent; 13921

(2) The name of any person who gave notice that the decedent 13922  
was a medicaid recipient and that person's relationship to the 13923  
decedent; 13924

(3) The name of the financial institution; 13925

(4) The account number; 13926

(5) A description of the claim for estate recovery; 13927

(6) The amount of funds to be recovered. 13928

(B) A financial institution may release account proceeds to 13929  
the administrator of the estate recovery program if all of the 13930  
following apply: 13931

(1) The decedent held an account at the financial institution that was in the decedent's name only. 13932  
13933

(2) No estate has been, and it is reasonable to assume that no estate will be, opened for the decedent. 13934  
13935

(3) The decedent has no outstanding debts known to the administrator of the estate recovery program. 13936  
13937

(4) The financial institution has received no objections or has determined that no valid objections to release of proceeds have been received. 13938  
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13940

(C) If proceeds have been released pursuant to division (B) of this section and the department of job and family services receives notice of a valid claim to the proceeds that has a higher priority under section 2117.25 of the Revised Code than the claim of the estate recovery program, the department may refund the proceeds to the financial institution or pay them to the person or government entity with the claim. 13941  
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**Sec. 2117.06.** (A) All creditors having claims against an estate, including claims arising out of contract, out of tort, on cognovit notes, or on judgments, whether due or not due, secured or unsecured, liquidated or unliquidated, shall present their claims in one of the following manners: 13948  
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(1) To the executor or administrator in a writing; 13953

(2) To the executor or administrator in a writing, and to the probate court by filing a copy of the writing with it; 13954  
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(3) In a writing that is sent by ordinary mail addressed to the decedent and that is actually received by the executor or administrator within the appropriate time specified in division (B) of this section. For purposes of this division, if an executor or administrator is not a natural person, the writing shall be considered as being actually received by the executor or 13956  
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administrator only if the person charged with the primary 13962  
responsibility of administering the estate of the decedent 13963  
actually receives the writing within the appropriate time 13964  
specified in division (B) of this section. 13965

(B) ~~All~~ Except as provided in section 2117.061 of the Revised 13966  
Code, all claims shall be presented within one year after the 13967  
death of the decedent, whether or not the estate is released from 13968  
administration or an executor or administrator is appointed during 13969  
that one-year period. Every claim presented shall set forth the 13970  
claimant's address. 13971

(C) ~~A~~ Except as provided in section 2117.061 of the Revised 13972  
Code, a claim that is not presented within one year after the 13973  
death of the decedent shall be forever barred as to all parties, 13974  
including, but not limited to, devisees, legatees, and 13975  
distributees. No payment shall be made on the claim and no action 13976  
shall be maintained on the claim, except as otherwise provided in 13977  
sections 2117.37 to 2117.42 of the Revised Code with reference to 13978  
contingent claims. 13979

(D) In the absence of any prior demand for allowance, the 13980  
executor or administrator shall allow or reject all claims, except 13981  
tax assessment claims, within thirty days after their 13982  
presentation, provided that failure of the executor or 13983  
administrator to allow or reject within that time shall not 13984  
prevent the executor or administrator from doing so after that 13985  
time and shall not prejudice the rights of any claimant. Upon the 13986  
allowance of a claim, the executor or the administrator, on demand 13987  
of the creditor, shall furnish the creditor with a written 13988  
statement or memorandum of the fact and date of the allowance. 13989

(E) If the executor or administrator has actual knowledge of 13990  
a pending action commenced against the decedent prior to the 13991  
decedent's death in a court of record in this state, the executor 13992  
or administrator shall file a notice of the appointment of the 13993

executor or administrator in the pending action within ten days 13994  
after acquiring that knowledge. If the administrator or executor 13995  
is not a natural person, actual knowledge of a pending suit 13996  
against the decedent shall be limited to the actual knowledge of 13997  
the person charged with the primary responsibility of 13998  
administering the estate of the decedent. Failure to file the 13999  
notice within the ten-day period does not extend the claim period 14000  
established by this section. 14001

(F) This section applies to any person who is required to 14002  
give written notice to the executor or administrator of a motion 14003  
or application to revive an action pending against the decedent at 14004  
the date of the death of the decedent. 14005

(G) Nothing in this section or in section 2117.07 of the 14006  
Revised Code shall be construed to reduce the time mentioned in 14007  
section 2125.02, 2305.09, 2305.10, 2305.11, 2305.113, or 2305.12 14008  
of the Revised Code, provided that no portion of any recovery on a 14009  
claim brought pursuant to any of those sections shall come from 14010  
the assets of an estate unless the claim has been presented 14011  
against the estate in accordance with Chapter 2117. of the Revised 14012  
Code. 14013

(H) Any person whose claim has been presented and has not 14014  
been rejected after presentment is a creditor as that term is used 14015  
in Chapters 2113. to 2125. of the Revised Code. Claims that are 14016  
contingent need not be presented except as provided in sections 14017  
2117.37 to 2117.42 of the Revised Code, but, whether presented 14018  
pursuant to those sections or this section, contingent claims may 14019  
be presented in any of the manners described in division (A) of 14020  
this section. 14021

(I) If a creditor presents a claim against an estate in 14022  
accordance with division (A)(2) of this section, the probate court 14023  
shall not close the administration of the estate until that claim 14024  
is allowed or rejected. 14025

(J) The probate court shall not require an executor or administrator to make and return into the court a schedule of claims against the estate.

(K) If the executor or administrator makes a distribution of the assets of the estate prior to the expiration of the time for the filing of claims as set forth in this section, the executor or administrator shall provide notice on the account delivered to each distributee that the distributee may be liable to the estate up to the value of the distribution and may be required to return all or any part of the value of the distribution if a valid claim is subsequently made against the estate within the time permitted under this section.

Sec. 2117.061. (A) As used in this section, "person responsible for the estate" means the executor, administrator, commissioner, or person who filed pursuant to section 2113.03 of the Revised Code for release from administration of an estate.

(B) If the decedent was fifty-five years of age or older at the time of death, the person responsible for an estate shall determine whether the decedent was a recipient of medical assistance under Chapter 5111. of the Revised Code. If the decedent was a recipient, the person responsible for the estate shall give written notice to that effect to the administrator of the estate recovery program instituted under section 5111.11 of the Revised Code not later than thirty days after the occurrence of any of the following:

(1) The granting of letters testamentary;

(2) The administration of the estate;

(3) The filing of an application for release from administration or summary release from administration.

(C) The person responsible for an estate shall mark the

appropriate box on the appropriate probate form to indicate 14056  
compliance with the requirements of division (B) of this section. 14057

(D) The estate recovery program administrator shall present a 14058  
claim for estate recovery to the person responsible for the estate 14059  
or the person's legal representative not later than ninety days 14060  
after the date on which notice is received under division (B) of 14061  
this section or one year after the decedent's death, whichever is 14062  
later. 14063

**Sec. 2117.25.** (A) Every executor or administrator shall 14064  
proceed with diligence to pay the debts of the decedent and shall 14065  
apply the assets in the following order: 14066

(1) Costs and expenses of administration; 14067

(2) An amount, not exceeding two thousand dollars, for 14068  
funeral expenses that are included in the bill of a funeral 14069  
director, funeral expenses other than those in the bill of a 14070  
funeral director that are approved by the probate court, and an 14071  
amount, not exceeding two thousand dollars, for burial and 14072  
cemetery expenses, including that portion of the funeral 14073  
director's bill allocated to cemetery expenses that have been paid 14074  
to the cemetery by the funeral director. 14075

For purposes of this division, burial and cemetery expenses 14076  
shall be limited to the following: 14077

(a) The purchase of a place of interment; 14078

(b) Monuments or other markers; 14079

(c) The outer burial container; 14080

(d) The cost of opening and closing the place of interment; 14081

(e) The urn. 14082

(3) The allowance for support made to the surviving spouse, 14083  
minor children, or both under section 2106.13 of the Revised Code; 14084

(4) Debts entitled to a preference under the laws of the United States;	14085 14086
(5) Expenses of the last sickness of the decedent;	14087
(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;	14088 14089 14090 14091 14092
(7) <u>Personal property taxes, claims made under the estate recovery program instituted pursuant to section 5111.11 of the Revised Code,</u> and obligations for which the decedent was personally liable to the state or any of its subdivisions;	14093 14094 14095 14096
(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;	14097 14098 14099
(9) Other debts for which claims have been presented and finally allowed.	14100 14101
(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.	14102 14103 14104 14105 14106 14107 14108
(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.	14109 14110 14111 14112 14113 14114

(D)(1) Chapters 2113. to 2125. of the Revised Code, relating 14115  
to the manner in which and the time within which claims shall be 14116  
presented, shall apply to claims set forth in divisions (A)(2), 14117  
(6), and (8) of this section. Claims for an expense of 14118  
administration or for the allowance for support need not be 14119  
presented. The executor or administrator shall pay debts included 14120  
in divisions (A)(4) and (7) of this section, of which the executor 14121  
or administrator has knowledge, regardless of presentation. 14122

(2) The giving of written notice to an executor or 14123  
administrator of a motion or application to revive an action 14124  
pending against the decedent at the date of death shall be 14125  
equivalent to the presentation of a claim to the executor or 14126  
administrator for the purpose of determining the order of payment 14127  
of any judgment rendered or decree entered in such an action. 14128

(E) No payments shall be made to creditors of one class until 14129  
all those of the preceding class are fully paid or provided for. 14130  
If the assets are insufficient to pay all the claims of one class, 14131  
the creditors of that class shall be paid ratably. 14132

(F) If it appears at any time that the assets have been 14133  
exhausted in paying prior or preferred charges, allowances, or 14134  
claims, those payments shall be a bar to an action on any claim 14135  
not entitled to that priority or preference. 14136

**Sec. 2151.352.** A Except as otherwise provided in this 14137  
section, a child, or the child's parents, or custodian, or any 14138  
other person in loco parentis of ~~such~~ the child is entitled to 14139  
representation by legal counsel at all stages of the proceedings 14140  
under this chapter or Chapter 2152. of the Revised Code ~~and if,~~ 14141  
If, as an indigent person, any such person a party is unable to 14142  
employ counsel, the party is entitled to have counsel provided for 14143  
the person pursuant to Chapter 120. of the Revised Code. If a 14144  
party appears without counsel, the court shall ascertain whether 14145



the party knows of the party's right to counsel and of the party's 14146  
right to be provided with counsel if the party is an indigent 14147  
person. The court may continue the case to enable a party to 14148  
obtain counsel or to be represented by the county public defender 14149  
or the joint county public defender and shall provide counsel upon 14150  
request pursuant to Chapter 120. of the Revised Code. Counsel must 14151  
be provided for a child not represented by the child's parent, 14152  
guardian, or custodian. If the interests of two or more ~~such~~ 14153  
parties conflict, separate counsel shall be provided for each of 14154  
them. 14155

This section does not confer the right to court-appointed 14156  
counsel in civil actions arising under division (A)(2), (D), or 14157  
(F) of section 2151.23 or division (C) of section 3111.13 of the 14158  
Revised Code. 14159

Section 2935.14 of the Revised Code applies to any child 14160  
taken into custody. The parents, custodian, or guardian of ~~such a~~ 14161  
child taken into custody, and any attorney at law representing 14162  
them or the child, shall be entitled to visit ~~such~~ the child at 14163  
any reasonable time, be present at any hearing involving the 14164  
child, and be given reasonable notice of ~~such~~ the hearing. 14165

Any report or part ~~thereof~~ of a report concerning ~~such~~ the 14166  
child, which is used in the hearing and is pertinent ~~thereto~~ to 14167  
the hearing, shall for good cause shown be made available to any 14168  
attorney at law representing ~~such~~ the child and to any attorney at 14169  
law representing the parents, custodian, or guardian of ~~such~~ the 14170  
child, upon written request prior to any hearing involving ~~such~~ 14171  
the child. 14172

**Sec. 2151.3529.** (A) The director of job and family services 14173  
shall promulgate forms designed to gather pertinent medical 14174  
information concerning a deserted child and the child's parents. 14175  
The forms shall clearly and unambiguously state on each page that 14176

the information requested is to facilitate medical care for the 14177  
child, that the forms may be fully or partially completed or left 14178  
blank, that completing the forms or parts of the forms is 14179  
completely voluntary, and that no adverse legal consequence will 14180  
result from failure to complete any part of the forms. 14181

(B) The director shall promulgate written materials to be 14182  
given to the parents of a child delivered pursuant to section 14183  
2151.3516 of the Revised Code. The materials shall describe 14184  
services available to assist parents and newborns and shall 14185  
include information directly relevant to situations that might 14186  
cause parents to desert a child and information on the procedures 14187  
for a person to follow in order to reunite with a child the person 14188  
delivered under section 2151.3516 of the Revised Code, including 14189  
notice that the person will be required to submit to a DNA test, 14190  
at that person's expense, to prove that the person is the parent 14191  
of the child. 14192

(C) If the department of job and family services determines 14193  
that money in the putative father registry fund created under 14194  
section 2101.16 of the Revised Code is more than is needed for its 14195  
duties related to the putative father registry, the department may 14196  
use surplus moneys in the fund for costs related to the 14197  
development and publication of forms and materials promulgated 14198  
pursuant to divisions (A) and (B) of this section. 14199

**Sec. 2151.3530.** (A) The director of job and family services 14200  
shall distribute the medical information forms and written 14201  
materials promulgated under section 2151.3529 of the Revised Code 14202  
to entities permitted to receive a deserted child, to public 14203  
children services agencies, and to other public or private 14204  
agencies that, in the discretion of the director, are best able to 14205  
disseminate the forms and materials to the persons who are most in 14206  
need of the forms and materials. 14207

(B) If the department of job and family services determines 14208  
that money in the putative father registry fund created under 14209  
section 2101.16 of the Revised Code is more than is needed to 14210  
perform its duties related to the putative father registry, the 14211  
department may use surplus moneys in the fund for costs related to 14212  
the distribution of forms and materials pursuant to this section. 14213

**Sec. 2151.83.** (A) A public children services agency or 14214  
private child placing agency, on the request of a young adult, 14215  
shall enter into a jointly prepared written agreement with the 14216  
young adult that obligates the agency to ensure that independent 14217  
living services are provided to the young adult and sets forth the 14218  
responsibilities of the young adult regarding the services. The 14219  
agreement shall be developed based on the young adult's strengths, 14220  
needs, and circumstances ~~and the availability of funds provided~~ 14221  
~~pursuant to section 2151.84 of the Revised Code.~~ The agreement 14222  
shall be designed to promote the young adult's successful 14223  
transition to independent adult living and emotional and economic 14224  
self-sufficiency. 14225

(B) If the young adult appears to be eligible for services 14226  
from one or more of the following entities, the agency must 14227  
contact the appropriate entity to determine eligibility: 14228

(1) An entity, other than the agency, that is represented on 14229  
a county family and children first council established pursuant to 14230  
section 121.37 of the Revised Code. If the entity is a board of 14231  
alcohol, drug addiction, and mental health services, an alcohol 14232  
and drug addiction services board, or a community mental health 14233  
board, the agency shall contact the provider of alcohol, drug 14234  
addiction, or mental health services that has been designated by 14235  
the board to determine the young adult's eligibility for services. 14236

(2) The rehabilitation services commission; 14237

(3) A metropolitan housing authority established pursuant to 14238  
section 3735.27 of the Revised Code. 14239

If an entity described in this division determines that the 14240  
young adult qualifies for services from the entity, that entity, 14241  
the young adult, and the agency to which the young adult made the 14242  
request for independent living services shall enter into a written 14243  
addendum to the jointly prepared agreement entered into under 14244  
division (A) of this section. The addendum shall indicate how 14245  
services under the agreement and addendum are to be coordinated 14246  
and allocate the service responsibilities among the entities and 14247  
agency that signed the addendum. 14248

**Sec. 2151.84.** The department of job and family services shall 14249  
establish model agreements that may be used by public children 14250  
services agencies and private child placing agencies required to 14251  
provide services under an agreement with a young adult pursuant to 14252  
section 2151.83 of the Revised Code. The model agreements shall 14253  
include provisions describing the specific independent living 14254  
services to be provided ~~to the extent funds are provided pursuant~~ 14255  
~~to this section~~, the duration of the services and the agreement, 14256  
the duties and responsibilities of each party under the agreement, 14257  
and grievance procedures regarding disputes that arise regarding 14258  
the agreement or services provided under it. 14259

~~To facilitate the provision of independent living services,~~ 14260  
~~the department shall provide funds to meet the requirement of~~ 14261  
~~state matching funds needed to qualify for federal funds under the~~ 14262  
~~"Foster Care Independence Act of 1999," 113 Stat. 1822 (1999), 42~~ 14263  
~~U.S.C. 677, as amended. The department shall seek controlling~~ 14264  
~~board approval of any fund transfers necessary to meet this~~ 14265  
~~requirement.~~ 14266

**Sec. 2152.19.** (A) If a child is adjudicated a delinquent 14267

child, the court may make any of the following orders of 14268  
disposition, in addition to any other disposition authorized or 14269  
required by this chapter: 14270

(1) Any order that is authorized by section 2151.353 of the 14271  
Revised Code for the care and protection of an abused, neglected, 14272  
or dependent child; 14273

(2) Commit the child to the temporary custody of any school, 14274  
camp, institution, or other facility operated for the care of 14275  
delinquent children by the county, by a district organized under 14276  
section 2152.41 or 2151.65 of the Revised Code, or by a private 14277  
agency or organization, within or without the state, that is 14278  
authorized and qualified to provide the care, treatment, or 14279  
placement required, including, but not limited to, a school, camp, 14280  
or facility operated under section 2151.65 of the Revised Code; 14281

(3) Place the child in a detention facility or district 14282  
detention facility operated under section 2152.41 of the Revised 14283  
Code, for up to ninety days; 14284

(4) Place the child on community control under any sanctions, 14285  
services, and conditions that the court prescribes. As a condition 14286  
of community control in every case and in addition to any other 14287  
condition that it imposes upon the child, the court shall require 14288  
the child to abide by the law during the period of community 14289  
control. As referred to in this division, community control 14290  
includes, but is not limited to, the following sanctions and 14291  
conditions: 14292

(a) A period of basic probation supervision in which the 14293  
child is required to maintain contact with a person appointed to 14294  
supervise the child in accordance with sanctions imposed by the 14295  
court; 14296

(b) A period of intensive probation supervision in which the 14297  
child is required to maintain frequent contact with a person 14298

appointed by the court to supervise the child while the child is 14299  
seeking or maintaining employment and participating in training, 14300  
education, and treatment programs as the order of disposition; 14301

(c) A period of day reporting in which the child is required 14302  
each day to report to and leave a center or another approved 14303  
reporting location at specified times in order to participate in 14304  
work, education or training, treatment, and other approved 14305  
programs at the center or outside the center; 14306

(d) A period of community service of up to five hundred hours 14307  
for an act that would be a felony or a misdemeanor of the first 14308  
degree if committed by an adult, up to two hundred hours for an 14309  
act that would be a misdemeanor of the second, third, or fourth 14310  
degree if committed by an adult, or up to thirty hours for an act 14311  
that would be a minor misdemeanor if committed by an adult; 14312

(e) A requirement that the child obtain a high school 14313  
diploma, a certificate of high school equivalence, vocational 14314  
training, or employment; 14315

(f) A period of drug and alcohol use monitoring; 14316

(g) A requirement of alcohol or drug assessment or 14317  
counseling, or a period in an alcohol or drug treatment program 14318  
with a level of security for the child as determined necessary by 14319  
the court; 14320

(h) A period in which the court orders the child to observe a 14321  
curfew that may involve daytime or evening hours; 14322

(i) A requirement that the child serve monitored time; 14323

(j) A period of house arrest with or without electronic 14324  
monitoring; 14325

(k) A period of electronic monitoring without house arrest or 14326  
electronically monitored house arrest that does not exceed the 14327  
maximum sentence of imprisonment that could be imposed upon an 14328

adult who commits the same act. 14329

A period of electronically monitored house arrest imposed 14330  
under this division shall not extend beyond the child's 14331  
twenty-first birthday. If a court imposes a period of 14332  
electronically monitored house arrest upon a child under this 14333  
division, it shall require the child: to wear, otherwise have 14334  
attached to the child's person, or otherwise be subject to 14335  
monitoring by a certified electronic monitoring device or to 14336  
participate in the operation of and monitoring by a certified 14337  
electronic monitoring system; to remain in the child's home or 14338  
other specified premises for the entire period of electronically 14339  
monitored house arrest except when the court permits the child to 14340  
leave those premises to go to school or to other specified 14341  
premises; to be monitored by a central system that can determine 14342  
the child's location at designated times; to report periodically 14343  
to a person designated by the court; and to enter into a written 14344  
contract with the court agreeing to comply with all requirements 14345  
imposed by the court, agreeing to pay any fee imposed by the court 14346  
for the costs of the electronically monitored house arrest, and 14347  
agreeing to waive the right to receive credit for any time served 14348  
on electronically monitored house arrest toward the period of any 14349  
other dispositional order imposed upon the child if the child 14350  
violates any of the requirements of the dispositional order of 14351  
electronically monitored house arrest. The court also may impose 14352  
other reasonable requirements upon the child. 14353

Unless ordered by the court, a child shall not receive credit 14354  
for any time served on electronically monitored house arrest 14355  
toward any other dispositional order imposed upon the child for 14356  
the act for which was imposed the dispositional order of 14357  
electronically monitored house arrest. 14358

(1) A suspension of the driver's license, probationary 14359  
driver's license, or temporary instruction permit issued to the 14360

child or a suspension of the registration of all motor vehicles 14361  
registered in the name of the child. A child whose license or 14362  
permit is so suspended is ineligible for issuance of a license or 14363  
permit during the period of suspension. At the end of the period 14364  
of suspension, the child shall not be reissued a license or permit 14365  
until the child has paid any applicable reinstatement fee and 14366  
complied with all requirements governing license reinstatement. 14367

(5) Commit the child to the custody of the court; 14368

(6) Require the child to not be absent without legitimate 14369  
excuse from the public school the child is supposed to attend for 14370  
five or more consecutive days, seven or more school days in one 14371  
school month, or twelve or more school days in a school year; 14372

(7)(a) If a child is adjudicated a delinquent child for being 14373  
a chronic truant or an habitual truant who previously has been 14374  
adjudicated an unruly child for being a habitual truant, do either 14375  
or both of the following: 14376

(i) Require the child to participate in a truancy prevention 14377  
mediation program; 14378

(ii) Make any order of disposition as authorized by this 14379  
section, except that the court shall not commit the child to a 14380  
facility described in division (A)(2) or (3) of this section 14381  
unless the court determines that the child violated a lawful court 14382  
order made pursuant to division (C)(1)(e) of section 2151.354 of 14383  
the Revised Code or division (A)(6) of this section. 14384

(b) If a child is adjudicated a delinquent child for being a 14385  
chronic truant or a habitual truant who previously has been 14386  
adjudicated an unruly child for being a habitual truant and the 14387  
court determines that the parent, guardian, or other person having 14388  
care of the child has failed to cause the child's attendance at 14389  
school in violation of section 3321.38 of the Revised Code, do 14390  
either or both of the following: 14391



(i) Require the parent, guardian, or other person having care of the child to participate in a truancy prevention mediation program; 14392  
14393  
14394

(ii) Require the parent, guardian, or other person having care of the child to participate in any community service program, preferably a community service program that requires the involvement of the parent, guardian, or other person having care of the child in the school attended by the child. 14395  
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(8) Make any further disposition that the court finds proper, except that the child shall not be placed in any of the following: 14400  
14401

(a) A state correctional institution, a county, multicounty, or municipal jail or workhouse, or another place in which an adult convicted of a crime, under arrest, or charged with a crime is held; 14402  
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(b) A community corrections facility, if the child would be covered by the definition of public safety beds for purposes of sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code if the court exercised its authority to commit the child to the legal custody of the department of youth services for institutionalization or institutionalization in a secure facility pursuant to this chapter. 14406  
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(B) If a child is adjudicated a delinquent child, in addition to any order of disposition made under division (A) of this section, the court, in the following situations, shall suspend the child's temporary instruction permit, restricted license, probationary driver's license, or nonresident operating privilege, or suspend the child's ability to obtain such a permit: 14413  
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(1) The child is adjudicated a delinquent child for violating section 2923.122 of the Revised Code, with the suspension and denial being in accordance with division (E)(1)(a), (c), (d), or (e) of section 2923.122 of the Revised Code. 14419  
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(2) The child is adjudicated a delinquent child for 14423  
committing an act that if committed by an adult would be a drug 14424  
abuse offense or for violating division (B) of section 2917.11 of 14425  
the Revised Code, with the suspension continuing until the child 14426  
attends and satisfactorily completes a drug abuse or alcohol abuse 14427  
education, intervention, or treatment program specified by the 14428  
court. During the time the child is attending the program, the 14429  
court shall retain any temporary instruction permit, probationary 14430  
driver's license, or driver's license issued to the child, and the 14431  
court shall return the permit or license when the child 14432  
satisfactorily completes the program. 14433

(C) The court may establish a victim-offender mediation 14434  
program in which victims and their offenders meet to discuss the 14435  
offense and suggest possible restitution. If the court obtains the 14436  
assent of the victim of the delinquent act committed by the child, 14437  
the court may require the child to participate in the program. 14438

(D)(1) If a child is adjudicated a delinquent child for 14439  
committing an act that would be a felony if committed by an adult 14440  
and if the child caused, attempted to cause, threatened to cause, 14441  
or created a risk of physical harm to the victim of the act, the 14442  
court, prior to issuing an order of disposition under this 14443  
section, shall order the preparation of a victim impact statement 14444  
by the probation department of the county in which the victim of 14445  
the act resides, by the court's own probation department, or by a 14446  
victim assistance program that is operated by the state, a county, 14447  
a municipal corporation, or another governmental entity. The court 14448  
shall consider the victim impact statement in determining the 14449  
order of disposition to issue for the child. 14450

(2) Each victim impact statement shall identify the victim of 14451  
the act for which the child was adjudicated a delinquent child, 14452  
itemize any economic loss suffered by the victim as a result of 14453  
the act, identify any physical injury suffered by the victim as a 14454

result of the act and the seriousness and permanence of the 14455  
injury, identify any change in the victim's personal welfare or 14456  
familial relationships as a result of the act and any 14457  
psychological impact experienced by the victim or the victim's 14458  
family as a result of the act, and contain any other information 14459  
related to the impact of the act upon the victim that the court 14460  
requires. 14461

(3) A victim impact statement shall be kept confidential and 14462  
is not a public record. However, the court may furnish copies of 14463  
the statement to the department of youth services if the 14464  
delinquent child is committed to the department or to both the 14465  
adjudicated delinquent child or the adjudicated delinquent child's 14466  
counsel and the prosecuting attorney. The copy of a victim impact 14467  
statement furnished by the court to the department pursuant to 14468  
this section shall be kept confidential and is not a public 14469  
record. If an officer is preparing pursuant to section 2947.06 or 14470  
2951.03 of the Revised Code or Criminal Rule 32.2 a presentence 14471  
investigation report pertaining to a person, the court shall make 14472  
available to the officer, for use in preparing the report, a copy 14473  
of any victim impact statement regarding that person. The copies 14474  
of a victim impact statement that are made available to the 14475  
adjudicated delinquent child or the adjudicated delinquent child's 14476  
counsel and the prosecuting attorney pursuant to this division 14477  
shall be returned to the court by the person to whom they were 14478  
made available immediately following the imposition of an order of 14479  
disposition for the child under this chapter. 14480

The copy of a victim impact statement that is made available 14481  
pursuant to this division to an officer preparing a criminal 14482  
presentence investigation report shall be returned to the court by 14483  
the officer immediately following its use in preparing the report. 14484

(4) The department of youth services shall work with local 14485  
probation departments and victim assistance programs to develop a 14486

standard victim impact statement. 14487

(E) If a child is adjudicated a delinquent child for being a 14488  
chronic truant or an habitual truant who previously has been 14489  
adjudicated an unruly child for being an habitual truant and the 14490  
court determines that the parent, guardian, or other person having 14491  
care of the child has failed to cause the child's attendance at 14492  
school in violation of section 3321.38 of the Revised Code, in 14493  
addition to any order of disposition it makes under this section, 14494  
the court shall warn the parent, guardian, or other person having 14495  
care of the child that any subsequent adjudication of the child as 14496  
an unruly or delinquent child for being an habitual or chronic 14497  
truant may result in a criminal charge against the parent, 14498  
guardian, or other person having care of the child for a violation 14499  
of division (C) of section 2919.21 or section 2919.24 of the 14500  
Revised Code. 14501

(F)(1) During the period of a delinquent child's community 14502  
control granted under this section, authorized probation officers 14503  
who are engaged within the scope of their supervisory duties or 14504  
responsibilities may search, with or without a warrant, the person 14505  
of the delinquent child, the place of residence of the delinquent 14506  
child, and a motor vehicle, another item of tangible or intangible 14507  
personal property, or other real property in which the delinquent 14508  
child has a right, title, or interest or for which the delinquent 14509  
child has the express or implied permission of a person with a 14510  
right, title, or interest to use, occupy, or possess if the 14511  
probation officers have reasonable grounds to believe that the 14512  
delinquent child is not abiding by the law or otherwise is not 14513  
complying with the conditions of the delinquent child's community 14514  
control. The court that places a delinquent child on community 14515  
control under this section shall provide the delinquent child with 14516  
a written notice that informs the delinquent child that authorized 14517  
probation officers who are engaged within the scope of their 14518

supervisory duties or responsibilities may conduct those types of 14519  
searches during the period of community control if they have 14520  
reasonable grounds to believe that the delinquent child is not 14521  
abiding by the law or otherwise is not complying with the 14522  
conditions of the delinquent child's community control. The court 14523  
also shall provide the written notice described in division (E)(2) 14524  
of this section to each parent, guardian, or custodian of the 14525  
delinquent child who is described in that division. 14526

(2) The court that places a child on community control under 14527  
this section shall provide the child's parent, guardian, or other 14528  
custodian with a written notice that informs them that authorized 14529  
probation officers may conduct searches pursuant to division 14530  
(E)(1) of this section. The notice shall specifically state that a 14531  
permissible search might extend to a motor vehicle, another item 14532  
of tangible or intangible personal property, or a place of 14533  
residence or other real property in which a notified parent, 14534  
guardian, or custodian has a right, title, or interest and that 14535  
the parent, guardian, or custodian expressly or impliedly permits 14536  
the child to use, occupy, or possess. 14537

(G) If a juvenile court commits a delinquent child to the 14538  
custody of any person, organization, or entity pursuant to this 14539  
section and if the delinquent act for which the child is so 14540  
committed is a sexually oriented offense, the court in the order 14541  
of disposition shall do one of the following: 14542

(1) Require that the child be provided treatment as described 14543  
in division (A)(2) of section 5139.13 of the Revised Code; 14544

(2) Inform the person, organization, or entity that it is the 14545  
preferred course of action in this state that the child be 14546  
provided treatment as described in division (A)(2) of section 14547  
5139.13 of the Revised Code and encourage the person, 14548  
organization, or entity to provide that treatment. 14549

**Sec. 2301.58.** (A) The director of the community-based 14550  
correctional facility or district community-based correctional 14551  
facility may establish a commissary for the facility. The 14552  
commissary may be established either in-house or by another 14553  
arrangement. If a commissary is established, all persons 14554  
incarcerated in the facility shall receive commissary privileges. 14555  
A person's purchases from the commissary shall be deducted from 14556  
the person's account record in the facility's business office. The 14557  
commissary shall provide for the distribution to indigent persons 14558  
incarcerated in the facility necessary hygiene articles and 14559  
writing materials. 14560

(B) If a commissary is established, the director of the 14561  
community-based correctional facility or district community-based 14562  
correctional facility shall establish a commissary fund for the 14563  
facility. The management of funds in the commissary fund shall be 14564  
strictly controlled in accordance with procedures adopted by the 14565  
auditor of state. Commissary fund revenue over and above operating 14566  
costs and reserve shall be considered profits. All profits from 14567  
the commissary fund shall be used to purchase supplies and 14568  
equipment for the benefit of persons incarcerated in the facility 14569  
and to pay salary and benefits for employees of the facility, or 14570  
for any other persons, who work in or are employed for the sole 14571  
purpose of providing service to the commissary. The director of 14572  
the community-based correctional facility or district 14573  
community-based correctional facility shall adopt rules and 14574  
regulations for the operation of any commissary fund the director 14575  
establishes. 14576

**Sec. 2305.234.** (A) As used in this section: 14577

(1) "Chiropractic claim," "medical claim," and "optometric 14578  
claim" have the same meanings as in section 2305.113 of the 14579

Revised Code.	14580
(2) "Dental claim" has the same meaning as in section	14581
2305.113 of the Revised Code, except that it does not include any	14582
claim arising out of a dental operation or any derivative claim	14583
for relief that arises out of a dental operation.	14584
(3) "Governmental health care program" has the same meaning	14585
as in section 4731.65 of the Revised Code.	14586
(4) "Health care professional" means any of the following who	14587
provide medical, dental, or other health-related diagnosis, care,	14588
or treatment:	14589
(a) Physicians authorized under Chapter 4731. of the Revised	14590
Code to practice medicine and surgery or osteopathic medicine and	14591
surgery;	14592
(b) Registered nurses, advanced practice nurses, and licensed	14593
practical nurses licensed under Chapter 4723. of the Revised Code;	14594
(c) Physician assistants authorized to practice under Chapter	14595
4730. of the Revised Code;	14596
(d) Dentists and dental hygienists licensed under Chapter	14597
4715. of the Revised Code;	14598
(e) Physical therapists licensed under Chapter 4755. of the	14599
Revised Code;	14600
(f) Chiropractors licensed under Chapter 4734. of the Revised	14601
Code;	14602
(g) Optometrists licensed under Chapter 4725. of the Revised	14603
Code;	14604
(h) Podiatrists authorized under Chapter 4731. of the Revised	14605
Code to practice podiatry;	14606
(i) Dietitians licensed under Chapter 4759. of the Revised	14607
Code;	14608

(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	14609 14610
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code.	14611 14612 14613 14614
(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.	14615 14616 14617 14618 14619 14620 14621
(6) "Indigent and uninsured person" means a person who meets all of the following requirements:	14622 14623
(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.	14624 14625 14626 14627 14628
(b) The person is not eligible to receive medical assistance under Chapter 5111., disability <del>assistance</del> medical assistance under Chapter 5115. of the Revised Code, or assistance under any other governmental health care program.	14629 14630 14631 14632
(c) Either of the following applies:	14633
(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.	14634 14635 14636 14637
(ii) The person is a policyholder, certificate holder,	14638



insured, contract holder, subscriber, enrollee, member, 14639  
beneficiary, or other covered individual under a health insurance 14640  
or health care policy, contract, or plan, but the insurer, policy, 14641  
contract, or plan denies coverage or is the subject of insolvency 14642  
or bankruptcy proceedings in any jurisdiction. 14643

(7) "Operation" means any procedure that involves cutting or 14644  
otherwise infiltrating human tissue by mechanical means, including 14645  
surgery, laser surgery, ionizing radiation, therapeutic 14646  
ultrasound, or the removal of intraocular foreign bodies. 14647  
"Operation" does not include the administration of medication by 14648  
injection, unless the injection is administered in conjunction 14649  
with a procedure infiltrating human tissue by mechanical means 14650  
other than the administration of medicine by injection. 14651

(8) "Nonprofit shelter or health care facility" means a 14652  
charitable nonprofit corporation organized and operated pursuant 14653  
to Chapter 1702. of the Revised Code, or any charitable 14654  
organization not organized and not operated for profit, that 14655  
provides shelter, health care services, or shelter and health care 14656  
services to indigent and uninsured persons, except that "shelter 14657  
or health care facility" does not include a hospital as defined in 14658  
section 3727.01 of the Revised Code, a facility licensed under 14659  
Chapter 3721. of the Revised Code, or a medical facility that is 14660  
operated for profit. 14661

(9) "Tort action" means a civil action for damages for 14662  
injury, death, or loss to person or property other than a civil 14663  
action for damages for a breach of contract or another agreement 14664  
between persons or government entities. 14665

(10) "Volunteer" means an individual who provides any 14666  
medical, dental, or other health-care related diagnosis, care, or 14667  
treatment without the expectation of receiving and without receipt 14668  
of any compensation or other form of remuneration from an indigent 14669  
and uninsured person, another person on behalf of an indigent and 14670

uninsured person, any shelter or health care facility, or any 14671  
other person or government entity. 14672

(B)(1) Subject to divisions (E) and (F)(3) of this section, a 14673  
health care professional who is a volunteer and complies with 14674  
division (B)(2) of this section is not liable in damages to any 14675  
person or government entity in a tort or other civil action, 14676  
including an action on a medical, dental, chiropractic, 14677  
optometric, or other health-related claim, for injury, death, or 14678  
loss to person or property that allegedly arises from an action or 14679  
omission of the volunteer in the provision at a nonprofit shelter 14680  
or health care facility to an indigent and uninsured person of 14681  
medical, dental, or other health-related diagnosis, care, or 14682  
treatment, including the provision of samples of medicine and 14683  
other medical products, unless the action or omission constitutes 14684  
willful or wanton misconduct. 14685

(2) To qualify for the immunity described in division (B)(1) 14686  
of this section, a health care professional shall do all of the 14687  
following prior to providing diagnosis, care, or treatment: 14688

(a) Determine, in good faith, that the indigent and uninsured 14689  
person is mentally capable of giving informed consent to the 14690  
provision of the diagnosis, care, or treatment and is not subject 14691  
to duress or under undue influence; 14692

(b) Inform the person of the provisions of this section; 14693

(c) Obtain the informed consent of the person and a written 14694  
waiver, signed by the person or by another individual on behalf of 14695  
and in the presence of the person, that states that the person is 14696  
mentally competent to give informed consent and, without being 14697  
subject to duress or under undue influence, gives informed consent 14698  
to the provision of the diagnosis, care, or treatment subject to 14699  
the provisions of this section. 14700

(3) A physician or podiatrist who is not covered by medical 14701

malpractice insurance, but complies with division (B)(2) of this 14702  
section, is not required to comply with division (A) of section 14703  
4731.143 of the Revised Code. 14704

(C) Subject to divisions (E) and (F)(3) of this section, 14705  
health care workers who are volunteers are not liable in damages 14706  
to any person or government entity in a tort or other civil 14707  
action, including an action upon a medical, dental, chiropractic, 14708  
optometric, or other health-related claim, for injury, death, or 14709  
loss to person or property that allegedly arises from an action or 14710  
omission of the health care worker in the provision at a nonprofit 14711  
shelter or health care facility to an indigent and uninsured 14712  
person of medical, dental, or other health-related diagnosis, 14713  
care, or treatment, unless the action or omission constitutes 14714  
willful or wanton misconduct. 14715

(D) Subject to divisions (E) and (F)(3) of this section and 14716  
section 3701.071 of the Revised Code, a nonprofit shelter or 14717  
health care facility associated with a health care professional 14718  
described in division (B)(1) of this section or a health care 14719  
worker described in division (C) of this section is not liable in 14720  
damages to any person or government entity in a tort or other 14721  
civil action, including an action on a medical, dental, 14722  
chiropractic, optometric, or other health-related claim, for 14723  
injury, death, or loss to person or property that allegedly arises 14724  
from an action or omission of the health care professional or 14725  
worker in providing for the shelter or facility medical, dental, 14726  
or other health-related diagnosis, care, or treatment to an 14727  
indigent and uninsured person, unless the action or omission 14728  
constitutes willful or wanton misconduct. 14729

(E)(1) Except as provided in division (E)(2) of this section, 14730  
the immunities provided by divisions (B), (C), and (D) of this 14731  
section are not available to an individual or to a nonprofit 14732  
shelter or health care facility if, at the time of an alleged 14733

injury, death, or loss to person or property, the individuals 14734  
involved are providing one of the following: 14735

(a) Any medical, dental, or other health-related diagnosis, 14736  
care, or treatment pursuant to a community service work order 14737  
entered by a court under division (F) of section 2951.02 of the 14738  
Revised Code as a condition of probation or other suspension of a 14739  
term of imprisonment or imposed by a court as a community control 14740  
sanction pursuant to sections 2929.15 and 2929.17 of the Revised 14741  
Code. 14742

(b) Performance of an operation. 14743

(c) Delivery of a baby. 14744

(2) Division (E)(1) of this section does not apply to an 14745  
individual who provides, or a nonprofit shelter or health care 14746  
facility at which the individual provides, diagnosis, care, or 14747  
treatment that is necessary to preserve the life of a person in a 14748  
medical emergency. 14749

(F)(1) This section does not create a new cause of action or 14750  
substantive legal right against a health care professional, health 14751  
care worker, or nonprofit shelter or health care facility. 14752

(2) This section does not affect any immunities from civil 14753  
liability or defenses established by another section of the 14754  
Revised Code or available at common law to which an individual or 14755  
a nonprofit shelter or health care facility may be entitled in 14756  
connection with the provision of emergency or other diagnosis, 14757  
care, or treatment. 14758

(3) This section does not grant an immunity from tort or 14759  
other civil liability to an individual or a nonprofit shelter or 14760  
health care facility for actions that are outside the scope of 14761  
authority of health care professionals or health care workers. 14762

(4) This section does not affect any legal responsibility of 14763

a health care professional or health care worker to comply with 14764  
any applicable law of this state or rule of an agency of this 14765  
state. 14766

(5) This section does not affect any legal responsibility of 14767  
a nonprofit shelter or health care facility to comply with any 14768  
applicable law of this state, rule of an agency of this state, or 14769  
local code, ordinance, or regulation that pertains to or regulates 14770  
building, housing, air pollution, water pollution, sanitation, 14771  
health, fire, zoning, or safety. 14772

**Sec. 2329.07.** If neither execution on a judgment rendered in 14773  
a court of record or certified to the clerk of the court of common 14774  
pleas in the county in which the judgment was rendered is issued, 14775  
nor a certificate of judgment for obtaining a lien upon lands and 14776  
tenements is issued and filed, as provided in sections 2329.02 and 14777  
2329.04 of the Revised Code, within five years from the date of 14778  
the judgment or within five years from the date of the issuance of 14779  
the last execution thereon or the issuance and filing of the last 14780  
such certificate, whichever is later, then, unless the judgment is 14781  
in favor of the state, the judgment shall be dormant and shall not 14782  
operate as a lien upon the estate of the judgment debtor. 14783

If the judgment is in favor of the state, the judgment shall 14784  
not become dormant and shall not cease to operate as a lien 14785  
against the estate of the judgment debtor ~~unless neither such~~ 14786  
provided that either execution on the judgment is issued ~~nor such~~ 14787  
or a certificate of judgment is issued and filed, as provided in 14788  
sections 2329.02 and 2329.04 of the Revised Code, within ten years 14789  
from the date of the judgment ~~or within ten years from the date of~~ 14790  
~~the issuance of the last execution thereon or the issuance and~~ 14791  
~~filing of the last such certificate, whichever is later.~~ 14792

If, in any county other than that in which a judgment was 14793  
rendered, the judgment has become a lien by reason of the filing, 14794

in the office of the clerk of the court of common pleas of that 14795  
county, of a certificate of the judgment as provided in sections 14796  
2329.02 and 2329.04 of the Revised Code, and if no execution is 14797  
issued for the enforcement of the judgment within that county, or 14798  
no further certificate of the judgment is filed in that county, 14799  
within five years ~~or, if the judgment is in favor of the state,~~ 14800  
~~within ten years~~ from the date of issuance of the last execution 14801  
for the enforcement of the judgment within that county or the date 14802  
of filing of the last certificate in that county, whichever is the 14803  
later, then the judgment shall cease to operate as a lien upon 14804  
lands and tenements of the judgment debtor within that county, 14805  
unless the judgment is in favor of the state, in which case the 14806  
judgment shall not become dormant. 14807

~~This section applies to judgments in favor of the state.~~ 14808

**Sec. 2329.66.** (A) Every person who is domiciled in this state 14809  
may hold property exempt from execution, garnishment, attachment, 14810  
or sale to satisfy a judgment or order, as follows: 14811

(1)(a) In the case of a judgment or order regarding money 14812  
owed for health care services rendered or health care supplies 14813  
provided to the person or a dependent of the person, one parcel or 14814  
item of real or personal property that the person or a dependent 14815  
of the person uses as a residence. Division (A)(1)(a) of this 14816  
section does not preclude, affect, or invalidate the creation 14817  
under this chapter of a judgment lien upon the exempted property 14818  
but only delays the enforcement of the lien until the property is 14819  
sold or otherwise transferred by the owner or in accordance with 14820  
other applicable laws to a person or entity other than the 14821  
surviving spouse or surviving minor children of the judgment 14822  
debtor. Every person who is domiciled in this state may hold 14823  
exempt from a judgment lien created pursuant to division (A)(1)(a) 14824  
of this section the person's interest, not to exceed five thousand 14825

dollars, in the exempted property.	14826
(b) In the case of all other judgments and orders, the person's interest, not to exceed five thousand dollars, in one parcel or item of real or personal property that the person or a dependent of the person uses as a residence.	14827 14828 14829 14830
(2) The person's interest, not to exceed one thousand dollars, in one motor vehicle;	14831 14832
(3) The person's interest, not to exceed two hundred dollars in any particular item, in wearing apparel, beds, and bedding, and the person's interest, not to exceed three hundred dollars in each item, in one cooking unit and one refrigerator or other food preservation unit;	14833 14834 14835 14836 14837
(4)(a) The person's interest, not to exceed four hundred dollars, in cash on hand, money due and payable, money to become due within ninety days, tax refunds, and money on deposit with a bank, savings and loan association, credit union, public utility, landlord, or other person. Division (A)(4)(a) of this section applies only in bankruptcy proceedings. This exemption may include the portion of personal earnings that is not exempt under division (A)(13) of this section.	14838 14839 14840 14841 14842 14843 14844 14845
(b) Subject to division (A)(4)(d) of this section, the person's interest, not to exceed two hundred dollars in any particular item, in household furnishings, household goods, appliances, books, animals, crops, musical instruments, firearms, and hunting and fishing equipment, that are held primarily for the personal, family, or household use of the person;	14846 14847 14848 14849 14850 14851
(c) Subject to division (A)(4)(d) of this section, the person's interest in one or more items of jewelry, not to exceed four hundred dollars in one item of jewelry and not to exceed two hundred dollars in every other item of jewelry;	14852 14853 14854 14855
(d) Divisions (A)(4)(b) and (c) of this section do not	14856

include items of personal property listed in division (A)(3) of 14857  
this section. 14858

If the person does not claim an exemption under division 14859  
(A)(1) of this section, the total exemption claimed under division 14860  
(A)(4)(b) of this section shall be added to the total exemption 14861  
claimed under division (A)(4)(c) of this section, and the total 14862  
shall not exceed two thousand dollars. If the person claims an 14863  
exemption under division (A)(1) of this section, the total 14864  
exemption claimed under division (A)(4)(b) of this section shall 14865  
be added to the total exemption claimed under division (A)(4)(c) 14866  
of this section, and the total shall not exceed one thousand five 14867  
hundred dollars. 14868

(5) The person's interest, not to exceed an aggregate of 14869  
seven hundred fifty dollars, in all implements, professional 14870  
books, or tools of the person's profession, trade, or business, 14871  
including agriculture; 14872

(6)(a) The person's interest in a beneficiary fund set apart, 14873  
appropriated, or paid by a benevolent association or society, as 14874  
exempted by section 2329.63 of the Revised Code; 14875

(b) The person's interest in contracts of life or endowment 14876  
insurance or annuities, as exempted by section 3911.10 of the 14877  
Revised Code; 14878

(c) The person's interest in a policy of group insurance or 14879  
the proceeds of a policy of group insurance, as exempted by 14880  
section 3917.05 of the Revised Code; 14881

(d) The person's interest in money, benefits, charity, 14882  
relief, or aid to be paid, provided, or rendered by a fraternal 14883  
benefit society, as exempted by section 3921.18 of the Revised 14884  
Code; 14885

(e) The person's interest in the portion of benefits under 14886  
policies of sickness and accident insurance and in lump sum 14887



payments for dismemberment and other losses insured under those policies, as exempted by section 3923.19 of the Revised Code.	14888 14889
(7) The person's professionally prescribed or medically necessary health aids;	14890 14891
(8) The person's interest in a burial lot, including, but not limited to, exemptions under section 517.09 or 1721.07 of the Revised Code;	14892 14893 14894
(9) The person's interest in the following:	14895
(a) Moneys paid or payable for living maintenance or rights, as exempted by section 3304.19 of the Revised Code;	14896 14897
(b) Workers' compensation, as exempted by section 4123.67 of the Revised Code;	14898 14899
(c) Unemployment compensation benefits, as exempted by section 4141.32 of the Revised Code;	14900 14901
(d) Cash assistance payments under the Ohio works first program, as exempted by section 5107.75 of the Revised Code;	14902 14903
(e) Benefits and services under the prevention, retention, and contingency program, as exempted by section 5108.08 of the Revised Code;	14904 14905 14906
(f) Disability <u>financial</u> assistance payments, as exempted by section <del>5115.07</del> <u>5115.06</u> of the Revised Code.	14907 14908
(10)(a) Except in cases in which the person was convicted of or pleaded guilty to a violation of section 2921.41 of the Revised Code and in which an order for the withholding of restitution from payments was issued under division (C)(2)(b) of that section or in cases in which an order for withholding was issued under section 2907.15 of the Revised Code, and only to the extent provided in the order, and except as provided in sections 3105.171, 3105.63, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to a pension, benefit, annuity,	14909 14910 14911 14912 14913 14914 14915 14916 14917

retirement allowance, or accumulated contributions, the person's 14918  
right to a participant account in any deferred compensation 14919  
program offered by the Ohio public employees deferred compensation 14920  
board, a government unit, or a municipal corporation, or the 14921  
person's other accrued or accruing rights, as exempted by section 14922  
145.56, 146.13, 148.09, 742.47, 3307.41, 3309.66, or 5505.22 of 14923  
the Revised Code, and the person's right to benefits from the Ohio 14924  
public safety officers death benefit fund; 14925

(b) Except as provided in sections 3119.80, 3119.81, 3121.02, 14926  
3121.03, and 3123.06 of the Revised Code, the person's right to 14927  
receive a payment under any pension, annuity, or similar plan or 14928  
contract, not including a payment from a stock bonus or 14929  
profit-sharing plan or a payment included in division (A)(6)(b) or 14930  
(10)(a) of this section, on account of illness, disability, death, 14931  
age, or length of service, to the extent reasonably necessary for 14932  
the support of the person and any of the person's dependents, 14933  
except if all the following apply: 14934

(i) The plan or contract was established by or under the 14935  
auspices of an insider that employed the person at the time the 14936  
person's rights under the plan or contract arose. 14937

(ii) The payment is on account of age or length of service. 14938

(iii) The plan or contract is not qualified under the 14939  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 14940  
amended. 14941

(c) Except for any portion of the assets that were deposited 14942  
for the purpose of evading the payment of any debt and except as 14943  
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 14944  
3123.06 of the Revised Code, the person's right in the assets held 14945  
in, or to receive any payment under, any individual retirement 14946  
account, individual retirement annuity, "Roth IRA," or education 14947  
individual retirement account that provides benefits by reason of 14948

illness, disability, death, or age, to the extent that the assets, 14949  
payments, or benefits described in division (A)(10)(c) of this 14950  
section are attributable to any of the following: 14951

(i) Contributions of the person that were less than or equal 14952  
to the applicable limits on deductible contributions to an 14953  
individual retirement account or individual retirement annuity in 14954  
the year that the contributions were made, whether or not the 14955  
person was eligible to deduct the contributions on the person's 14956  
federal tax return for the year in which the contributions were 14957  
made; 14958

(ii) Contributions of the person that were less than or equal 14959  
to the applicable limits on contributions to a Roth IRA or 14960  
education individual retirement account in the year that the 14961  
contributions were made; 14962

(iii) Contributions of the person that are within the 14963  
applicable limits on rollover contributions under subsections 219, 14964  
402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3)(B), 14965  
408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 1986," 14966  
100 Stat. 2085, 26 U.S.C.A. 1, as amended. 14967

(d) Except for any portion of the assets that were deposited 14968  
for the purpose of evading the payment of any debt and except as 14969  
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 14970  
3123.06 of the Revised Code, the person's right in the assets held 14971  
in, or to receive any payment under, any Keogh or "H.R. 10" plan 14972  
that provides benefits by reason of illness, disability, death, or 14973  
age, to the extent reasonably necessary for the support of the 14974  
person and any of the person's dependents. 14975

(11) The person's right to receive spousal support, child 14976  
support, an allowance, or other maintenance to the extent 14977  
reasonably necessary for the support of the person and any of the 14978  
person's dependents; 14979

(12) The person's right to receive, or moneys received during 14980  
the preceding twelve calendar months from, any of the following: 14981

(a) An award of reparations under sections 2743.51 to 2743.72 14982  
of the Revised Code, to the extent exempted by division (D) of 14983  
section 2743.66 of the Revised Code; 14984

(b) A payment on account of the wrongful death of an 14985  
individual of whom the person was a dependent on the date of the 14986  
individual's death, to the extent reasonably necessary for the 14987  
support of the person and any of the person's dependents; 14988

(c) Except in cases in which the person who receives the 14989  
payment is an inmate, as defined in section 2969.21 of the Revised 14990  
Code, and in which the payment resulted from a civil action or 14991  
appeal against a government entity or employee, as defined in 14992  
section 2969.21 of the Revised Code, a payment, not to exceed five 14993  
thousand dollars, on account of personal bodily injury, not 14994  
including pain and suffering or compensation for actual pecuniary 14995  
loss, of the person or an individual for whom the person is a 14996  
dependent; 14997

(d) A payment in compensation for loss of future earnings of 14998  
the person or an individual of whom the person is or was a 14999  
dependent, to the extent reasonably necessary for the support of 15000  
the debtor and any of the debtor's dependents. 15001

(13) Except as provided in sections 3119.80, 3119.81, 15002  
3121.02, 3121.03, and 3123.06 of the Revised Code, personal 15003  
earnings of the person owed to the person for services in an 15004  
amount equal to the greater of the following amounts: 15005

(a) If paid weekly, thirty times the current federal minimum 15006  
hourly wage; if paid biweekly, sixty times the current federal 15007  
minimum hourly wage; if paid semimonthly, sixty-five times the 15008  
current federal minimum hourly wage; or if paid monthly, one 15009  
hundred thirty times the current federal minimum hourly wage that 15010

is in effect at the time the earnings are payable, as prescribed 15011  
by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 15012  
U.S.C. 206(a)(1), as amended; 15013

(b) Seventy-five per cent of the disposable earnings owed to 15014  
the person. 15015

(14) The person's right in specific partnership property, as 15016  
exempted by division (B)(3) of section 1775.24 of the Revised 15017  
Code; 15018

(15) A seal and official register of a notary public, as 15019  
exempted by section 147.04 of the Revised Code; 15020

(16) The person's interest in a tuition credit or a payment 15021  
under section 3334.09 of the Revised Code pursuant to a tuition 15022  
credit contract, as exempted by section 3334.15 of the Revised 15023  
Code; 15024

(17) Any other property that is specifically exempted from 15025  
execution, attachment, garnishment, or sale by federal statutes 15026  
other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 11 15027  
U.S.C.A. 101, as amended; 15028

(18) The person's interest, not to exceed four hundred 15029  
dollars, in any property, except that division (A)(18) of this 15030  
section applies only in bankruptcy proceedings. 15031

(B) As used in this section: 15032

(1) "Disposable earnings" means net earnings after the 15033  
garnishee has made deductions required by law, excluding the 15034  
deductions ordered pursuant to section 3119.80, 3119.81, 3121.02, 15035  
3121.03, or 3123.06 of the Revised Code. 15036

(2) "Insider" means: 15037

(a) If the person who claims an exemption is an individual, a 15038  
relative of the individual, a relative of a general partner of the 15039  
individual, a partnership in which the individual is a general 15040

partner, a general partner of the individual, or a corporation of 15041  
which the individual is a director, officer, or in control; 15042

(b) If the person who claims an exemption is a corporation, a 15043  
director or officer of the corporation; a person in control of the 15044  
corporation; a partnership in which the corporation is a general 15045  
partner; a general partner of the corporation; or a relative of a 15046  
general partner, director, officer, or person in control of the 15047  
corporation; 15048

(c) If the person who claims an exemption is a partnership, a 15049  
general partner in the partnership; a general partner of the 15050  
partnership; a person in control of the partnership; a partnership 15051  
in which the partnership is a general partner; or a relative in, a 15052  
general partner of, or a person in control of the partnership; 15053

(d) An entity or person to which or whom any of the following 15054  
applies: 15055

(i) The entity directly or indirectly owns, controls, or 15056  
holds with power to vote, twenty per cent or more of the 15057  
outstanding voting securities of the person who claims an 15058  
exemption, unless the entity holds the securities in a fiduciary 15059  
or agency capacity without sole discretionary power to vote the 15060  
securities or holds the securities solely to secure to debt and 15061  
the entity has not in fact exercised the power to vote. 15062

(ii) The entity is a corporation, twenty per cent or more of 15063  
whose outstanding voting securities are directly or indirectly 15064  
owned, controlled, or held with power to vote, by the person who 15065  
claims an exemption or by an entity to which division (B)(2)(d)(i) 15066  
of this section applies. 15067

(iii) A person whose business is operated under a lease or 15068  
operating agreement by the person who claims an exemption, or a 15069  
person substantially all of whose business is operated under an 15070  
operating agreement with the person who claims an exemption. 15071

(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. 15072  
15073  
15074

(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; 15075  
15076  
15077  
15078

(f) A managing agent of the person who claims an exemption. 15079

(3) "Participant account" has the same meaning as in section 148.01 of the Revised Code. 15080  
15081

(4) "Government unit" has the same meaning as in section 148.06 of the Revised Code. 15082  
15083

(C) For purposes of this section, "interest" shall be determined as follows: 15084  
15085

(1) In bankruptcy proceedings, as of the date a petition is filed with the bankruptcy court commencing a case under Title 11 of the United States Code; 15086  
15087  
15088

(2) In all cases other than bankruptcy proceedings, as of the date of an appraisal, if necessary under section 2329.68 of the Revised Code, or the issuance of a writ of execution. 15089  
15090  
15091

An interest, as determined under division (C)(1) or (2) of this section, shall not include the amount of any lien otherwise valid pursuant to section 2329.661 of the Revised Code. 15092  
15093  
15094

**Sec. 2505.13.** If a supersedeas bond has been executed and filed and the surety is one other than a surety company, the clerk of the court with which the bond has been filed, upon request, shall issue a certificate that sets forth the fact that the bond has been filed and that states the style and number of the appeal, the amount of the bond, and the sureties on it. Such a certificate 15095  
15096  
15097  
15098  
15099  
15100

may be filed in the office of the county recorder of any county in 15101  
which the sureties may own land, and, when filed, the bond shall 15102  
be a lien upon the land of the sureties in such county. The lien 15103  
shall be extinguished upon the satisfaction, reversal, or vacation 15104  
of the final order, judgment, or decree involved, or by an order 15105  
of the court that entered the final order, judgment, or decree, 15106  
that releases the lien or releases certain land from the operation 15107  
of the lien. 15108

The clerk, upon request, shall issue a notice of discharge of 15109  
such a lien, which may be filed in the office of any recorder in 15110  
whose office the certificate of lien was filed. Such notice shall 15111  
state that the final order, judgment, or decree involved is 15112  
satisfied, reversed, or vacated, or that an order has been entered 15113  
that releases the lien or certain land from the operation of the 15114  
lien. Such recorder shall properly keep and file such certificates 15115  
and notices as are filed with ~~him~~ the recorder and shall index 15116  
them in the book or record provided for in section 2937.27 of the 15117  
Revised Code. 15118

The fee for issuing such a certificate or notice shall be as 15119  
provided by law, and shall be taxed as part of the costs of the 15120  
appeal. A county recorder shall receive a base fee of fifty cents 15121  
for filing and indexing such a certificate, which fee shall cover 15122  
the filing and the entering on the index of ~~such a~~ the notice and 15123  
a housing trust fund fee of fifty cents pursuant to section 317.36 15124  
of the Revised Code. 15125

**Sec. 2715.041.** (A) Upon the filing of a motion for an order 15126  
of attachment pursuant to section 2715.03 of the Revised Code, the 15127  
plaintiff shall file with the clerk of the court a praecipe 15128  
instructing the clerk to issue to the defendant against whom the 15129  
motion was filed a notice of the proceeding. Upon receipt of the 15130  
praecipe, the clerk shall issue the notice which shall be in 15131



substantially the following form:	15132
"(Name and Address of Court)	15133
Case No.....	15134
(Case Caption)	15135
NOTICE	15136
You are hereby notified that (name and address of plaintiff),	15137
the plaintiff in this proceeding, has applied to this court for	15138
the attachment of property in your possession. The basis for this	15139
application is indicated in the documents that are enclosed with	15140
this notice.	15141
The law of Ohio and the United States provides that certain	15142
benefit payments cannot be taken from you to pay a debt. Typical	15143
among the benefits that cannot be attached or executed on by a	15144
creditor are:	15145
(1) Workers' compensation benefits;	15146
(2) Unemployment compensation payments;	15147
(3) Cash assistance payments under the Ohio works first	15148
program;	15149
(4) Benefits and services under the prevention, retention,	15150
and contingency program;	15151
(5) Disability <u>financial</u> assistance administered by the Ohio	15152
department of job and family services;	15153
(6) Social security benefits;	15154
(7) Supplemental security income (S.S.I.);	15155
(8) Veteran's benefits;	15156
(9) Black lung benefits;	15157
(10) Certain pensions.	15158
Additionally, your wages never can be taken to pay a debt	15159
until a judgment has been obtained against you. There may be other	15160

benefits not included in this list that apply in your case. 15161

If you dispute the plaintiff's claim and believe that you are 15162  
entitled to retain possession of the property because it is exempt 15163  
or for any other reason, you may request a hearing before this 15164  
court by disputing the claim in the request for hearing form 15165  
appearing below, or in a substantially similar form, and 15166  
delivering the request for the hearing to this court, at the 15167  
office of the clerk of this court, not later than the end of the 15168  
fifth business day after you receive this notice. You may state 15169  
your reasons for disputing the claim in the space provided on the 15170  
form, but you are not required to do so. If you do state your 15171  
reasons for disputing the claim in the space provided on the form, 15172  
you are not prohibited from stating any other reasons at the 15173  
hearing, and if you do not state your reasons, it will not be held 15174  
against you by the court and you can state your reasons at the 15175  
hearing. 15176

If you request a hearing, it will be conducted in 15177  
..... courtroom ....., (address of court), at 15178  
.....m. on ....., ..... 15179

You may avoid having a hearing but retain possession of the 15180  
property until the entry of final judgment in the action by filing 15181  
with the court, at the office of the clerk of this court, not 15182  
later than the end of the fifth business day after you receive 15183  
this notice, a bond executed by an acceptable surety in the amount 15184  
of \$..... 15185

If you do not request a hearing or file a bond on or before 15186  
the end of the fifth business day after you receive this notice, 15187  
the court, without further notice to you, may order a law 15188  
enforcement officer or bailiff to take possession of the property. 15189  
Notice of the dates, times, places, and purposes of any subsequent 15190  
hearings and of the date, time, and place of the trial of the 15191  
action will be sent to you. 15192

..... 15193

Clerk of Court 15194

Date:....." 15195

(B) Along with the notice required by division (A) of this 15196  
section, the clerk of the court also shall deliver to the 15197  
defendant, in accordance with division (C) of this section, a 15198  
request for hearing form together with a postage-paid, 15199  
self-addressed envelope or a request for hearing form on a 15200  
postage-paid, self-addressed postcard. The request for hearing 15201  
shall be in substantially the following form: 15202

"(Name and Address of Court) 15203

Case Number ..... Date ..... 15204

REQUEST FOR HEARING 15205

I dispute the claim for the attachment of property in the 15206  
above case and request that a hearing in this matter be held at 15207  
the time and place set forth in the notice that I previously 15208  
received. 15209

I dispute the claim for the following reasons: 15210

..... 15211

(Optional) 15212

..... 15213

..... 15214

..... 15215

(Name of Defendant) 15216

..... 15217

(Signature) 15218

..... 15219

(Date) 15220

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A 15221

REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK 15222

OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, 15223  
YOU WAIVE YOUR RIGHT TO A HEARING AT THIS TIME AND YOU MAY BE 15224  
REQUIRED TO GIVE UP THE PROPERTY SOUGHT WITHOUT A HEARING." 15225

(C) The notice required by division (A) of this section shall 15226  
be served on the defendant in duplicate not less than seven 15227  
business days prior to the date on which the hearing is scheduled, 15228  
together with a copy of the complaint and summons, if not 15229  
previously served, and a copy of the motion for the attachment of 15230  
property and the affidavit attached to the motion, in the same 15231  
manner as provided in the Rules of Civil Procedure for the service 15232  
of process. Service may be effected by publication as provided in 15233  
the Rules of Civil Procedure except that the number of weeks for 15234  
publication may be reduced by the court to the extent appropriate. 15235

**Sec. 2715.045.** (A) Upon the filing of a motion for 15236  
attachment, a court may issue an order of attachment without 15237  
issuing notice to the defendant against whom the motion was filed 15238  
and without conducting a hearing if the court finds that there is 15239  
probable cause to support the motion and that the plaintiff that 15240  
filed the motion for attachment will suffer irreparable injury if 15241  
the order is delayed until the defendant against whom the motion 15242  
has been filed has been given the opportunity for a hearing. The 15243  
court's findings shall be based upon the motion and affidavit 15244  
filed pursuant to section 2715.03 of the Revised Code and any 15245  
other relevant evidence that it may wish to consider. 15246

(B) A finding by the court that the plaintiff will suffer 15247  
irreparable injury may be made only if the court finds the 15248  
existence of either of the following circumstances: 15249

(1) There is present danger that the property will be 15250  
immediately disposed of, concealed, or placed beyond the 15251  
jurisdiction of the court. 15252

(2) The value of the property will be impaired substantially 15253

if the issuance of an order of attachment is delayed. 15254

(C)(1) Upon the issuance by a court of an order of attachment 15255  
without notice and hearing pursuant to this section, the plaintiff 15256  
shall file the order with the clerk of the court, together with a 15257  
praecipe instructing the clerk to issue to the defendant against 15258  
whom the order was issued a copy of the motion, affidavit, and 15259  
order of attachment, and a notice that an order of attachment was 15260  
issued and that the defendant has a right to a hearing on the 15261  
matter. The clerk then immediately shall serve upon the defendant, 15262  
in the manner provided by the Rules of Civil Procedure for service 15263  
of process, a copy of the complaint and summons, if not previously 15264  
served, a copy of the motion, affidavit, and order of attachment, 15265  
and the following notice: 15266

"(Name and Address of the Court) 15267

(Case Caption) Case No. .... 15268

NOTICE 15269

You are hereby notified that this court has issued an order 15270  
in the above case in favor of (name and address of plaintiff), the 15271  
plaintiff in this proceeding, directing that property now in your 15272  
possession, be taken from you. This order was issued on the basis 15273  
of the plaintiff's claim against you as indicated in the documents 15274  
that are enclosed with this notice. 15275

The law of Ohio and the United States provides that certain 15276  
benefit payments cannot be taken from you to pay a debt. Typical 15277  
among the benefits that cannot be attached or executed on by a 15278  
creditor are: 15279

(1) Workers' compensation benefits; 15280

(2) Unemployment compensation payments; 15281

(3) Cash assistance payments under the Ohio works first 15282  
program; 15283

(4) Benefits and services under the prevention, retention, 15284

and contingency program;	15285
(5) Disability <u>financial</u> assistance administered by the Ohio department of job and family services;	15286 15287
(6) Social security benefits;	15288
(7) Supplemental security income (S.S.I.);	15289
(8) Veteran's benefits;	15290
(9) Black lung benefits;	15291
(10) Certain pensions.	15292
Additionally, your wages never can be taken to pay a debt until a judgment has been obtained against you. There may be other benefits not included in this list that apply in your case.	15293 15294 15295
If you dispute the plaintiff's claim and believe that you are entitled to possession of the property because it is exempt or 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 claim in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the claim, you are not prohibited from stating any other reasons at the hearing, and 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. If you request a hearing, it will be held within three business days after delivery of your request for hearing and notice of the date, time, and place of the hearing will be sent to you.	15296 15297 15298 15299 15300 15301 15302 15303 15304 15305 15306 15307 15308 15309 15310 15311 15312
You may avoid a hearing but recover and retain possession of the property until the entry of final judgment in the action by	15313 15314

filing with the court, at the office of the clerk of this court, 15315  
not later than the end of the fifth business day after you receive 15316  
this notice, a bond executed by an acceptable surety in the amount 15317  
of \$..... 15318

If you do not request a hearing or file a bond before the end 15319  
of the fifth business day after you receive this notice, 15320  
possession of the property will be withheld from you during the 15321  
pendency of the action. Notice of the dates, times, places, and 15322  
purposes of any subsequent hearings and of the date, time, and 15323  
place of the trial of the action will be sent to you. 15324

..... 15325  
Clerk of the Court 15326  
..... 15327  
Date" 15328

(2) Along with the notice required by division (C)(1) of this 15329  
section, the clerk of the court also shall deliver to the 15330  
defendant a request for hearing form together with a postage-paid, 15331  
self-addressed envelope or a request for hearing form on a 15332  
postage-paid, self-addressed postcard. The request for hearing 15333  
shall be in substantially the following form: 15334

"(Name and Address of Court) 15335  
Case Number ..... Date ..... 15336  
REQUEST FOR HEARING 15337

I dispute the claim for possession of property in the above 15338  
case and request that a hearing in this matter be held within 15339  
three business days after delivery of this request to the court. 15340

I dispute the claim for the following reasons: 15341  
..... 15342  
(Optional) 15343  
..... 15344

..... 15345  
..... 15346  
(Name of Defendant) 15347  
..... 15348  
(Signature) 15349  
..... 15350  
(Date) 15351

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A 15352  
REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK 15353  
OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, 15354  
YOU WAIVE YOUR RIGHT TO A HEARING AND POSSESSION OF THE PROPERTY 15355  
WILL BE WITHHELD FROM YOU DURING THE PENDENCY OF THE ACTION." 15356

(D) The defendant may receive a hearing in accordance with 15357  
section 2715.043 of the Revised Code by delivering a written 15358  
request for hearing to the court within five business days after 15359  
receipt of the notice provided pursuant to division (C) of this 15360  
section. The request may set forth the defendant's reasons for 15361  
disputing the plaintiff's claim for possession of property. 15362  
However, neither the defendant's inclusion of nor failure to 15363  
include such reasons upon the request constitutes a waiver of any 15364  
defense of the defendant or affects the defendant's right to 15365  
produce evidence at any hearing or at the trial of the action. If 15366  
the request is made by the defendant, the court shall schedule a 15367  
hearing within three business days after the request is made, send 15368  
notice to the parties of the date, time, and place of the hearing, 15369  
and hold the hearing accordingly. 15370

(E) If, after hearing, the court finds that there is not 15371  
probable cause to support the motion, it shall order that the 15372  
property be redelivered to the defendant without the condition of 15373  
bond. 15374

**Sec. 2716.13.** (A) Upon the filing of a proceeding in 15375



garnishment of property, other than personal earnings, under 15376  
section 2716.11 of the Revised Code, the court shall cause the 15377  
matter to be set for hearing within twelve days after that filing. 15378

(B) Upon the scheduling of a hearing relative to a proceeding 15379  
in garnishment of property, other than personal earnings, under 15380  
division (A) of this section, the clerk of the court immediately 15381  
shall issue to the garnishee three copies of the order of 15382  
garnishment of property, other than personal earnings, and of a 15383  
written notice that the garnishee answer as provided in section 15384  
2716.21 of the Revised Code and the garnishee's fee required by 15385  
section 2716.12 of the Revised Code. The copies of the order and 15386  
of the notice shall be served upon the garnishee in the same 15387  
manner as a summons is served. The copies of the order and of the 15388  
notice shall not be served later than seven days prior to the date 15389  
on which the hearing is scheduled. The order shall bind the 15390  
property, other than personal earnings, of the judgment debtor in 15391  
the possession of the garnishee at the time of service. 15392

The order of garnishment of property, other than personal 15393  
earnings, and notice to answer shall be in substantially the 15394  
following form: 15395

"ORDER AND NOTICE OF GARNISHMENT 15396  
OF PROPERTY OTHER THAN PERSONAL EARNINGS 15397  
AND ANSWER OF GARNISHEE 15398  
Docket No. .... 15399  
Case No. .... 15400  
In the ..... Court 15401  
....., Ohio 15402

The State of Ohio 15403

County of ....., ss 15404

....., Judgment Creditor 15405

vs. 15406

....., Judgment Debtor 15407

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT 15408

To: ....., Garnishee 15409

The judgment creditor in the above case has filed an 15410  
affidavit, satisfactory to the undersigned, in this Court stating 15411  
that you have money, property, or credits, other than personal 15412  
earnings, in your hands or under your control that belong to the 15413  
judgment debtor, and that some of the money, property, or credits 15414  
may not be exempt from garnishment under the laws of the State of 15415  
Ohio or the laws of the United States. 15416

You are therefore ordered to complete the "ANSWER OF 15417  
GARNISHEE" in section (B) of this form. Return one completed and 15418  
signed copy of this form to the clerk of this court together with 15419  
the amount determined in accordance with the "ANSWER OF GARNISHEE" 15420  
by the following date on which a hearing is tentatively scheduled 15421  
relative to this order of garnishment: ..... Deliver one 15422  
completed and signed copy of this form to the judgment debtor 15423  
prior to that date. Keep the other completed and signed copy of 15424  
this form for your files. 15425

The total probable amount now due on this judgment is 15426  
\$..... The total probable amount now due includes the unpaid 15427  
portion of the judgment in favor of the judgment creditor, which 15428  
is \$.....; interest on that judgment and, if applicable, 15429  
prejudgment interest relative to that judgment at the rate of 15430  
.....% per annum payable until that judgment is satisfied in full; 15431  
and court costs in the amount of \$..... 15432

You also are ordered to hold safely anything of value that 15433  
belongs to the judgment debtor and that has to be paid to the 15434  
court, as determined under the "ANSWER OF GARNISHEE" in section 15435  
(B) of this form, but that is of such a nature that it cannot be 15436  
so delivered, until further order of the court. 15437

Witness my hand and the seal of this court this .....	15438
day of ....., .....	15439
.....	15440
Judge	15441
SECTION B. ANSWER OF GARNISHEE	15442
Now comes ..... the garnishee, who says:	15443
1. That the garnishee has money, property, or credits, other	15444
than personal earnings, of the judgment debtor under the	15445
garnishee's control and in the garnishee's possession.	15446
.....	15447
yes no if yes, amount	15448
2. That property is described as:	15449
3. If the answer to line 1 is "yes" and the amount is less	15450
than the probable amount now due on the judgment, as indicated in	15451
section (A) of this form, sign and return this form and pay the	15452
amount of line 1 to the clerk of this court.	15453
4. If the answer to line 1 is "yes" and the amount is greater	15454
than that probable amount now due on the judgment, as indicated in	15455
section (A) of this form, sign and return this form and pay that	15456
probable amount now due to the clerk of this court.	15457
5. If the answer to line 1 is "yes" but the money, property,	15458
or credits are of such a nature that they cannot be delivered to	15459
the clerk of the court, indicate that by placing an "X" in this	15460
space: ..... Do not dispose of that money, property, or credits	15461
or give them to anyone else until further order of the court.	15462
6. If the answer to line 1 is "no," sign and return this form	15463
to the clerk of this court.	15464
I certify that the statements above are true.	15465
.....	15466
(Print Name of Garnishee)	15467

.....	15468
(Print Name and Title of	15469
Person Who Completed Form)	15470
Signed.....	15471
(Signature of Person Completing Form)	15472
Dated this ..... day of ....., ....."	15473
Section A of the form described in this division shall be	15474
completed before service. Section B of the form shall be completed	15475
by the garnishee, and the garnishee shall file one completed and	15476
signed copy of the form with the clerk of the court as the	15477
garnishee's answer. The garnishee may keep one completed and	15478
signed copy of the form and shall deliver the other completed and	15479
signed copy of the form to the judgment debtor.	15480
If several affidavits seeking orders of garnishment of	15481
property, other than personal earnings, are filed against the same	15482
judgment debtor in accordance with section 2716.11 of the Revised	15483
Code, the court involved shall issue the requested orders in the	15484
same order in which the clerk received the associated affidavits.	15485
(C)(1) At the time of the filing of a proceeding in	15486
garnishment of property, other than personal earnings, under	15487
section 2716.11 of the Revised Code, the judgment creditor also	15488
shall file with the clerk of the court a praecipe instructing the	15489
clerk to issue to the judgment debtor a notice to the judgment	15490
debtor form and a request for hearing form. Upon receipt of the	15491
praecipe and the scheduling of a hearing relative to an action in	15492
garnishment of property, other than personal earnings, under	15493
division (A) of this section, the clerk of the court immediately	15494
shall serve upon the judgment debtor, in accordance with division	15495
(D) of this section, two copies of the notice to the judgment	15496
debtor form and of the request for hearing form. The copies of the	15497
notice to the judgment debtor form and of the request for hearing	15498

form shall not be served later than seven days prior to the date 15499  
on which the hearing is scheduled. 15500

(a) The notice to the judgment debtor that must be served 15501  
upon the judgment debtor shall be in substantially the following 15502  
form: 15503

"(Name and Address of the Court) 15504

(Case Caption) ..... Case No. .... 15505

NOTICE TO THE JUDGMENT DEBTOR 15506

You are hereby notified that this court has issued an order 15507  
in the above case in favor of (name and address of judgment 15508  
creditor), the judgment creditor in this proceeding, directing 15509  
that some of your money, property, or credits, other than personal 15510  
earnings, now in the possession of (name and address of 15511  
garnishee), the garnishee in this proceeding, be used to satisfy 15512  
your debt to the judgment creditor. This order was issued on the 15513  
basis of the judgment creditor's judgment against you that was 15514  
obtained in (name of court) in (case number) on (date). Upon your 15515  
receipt of this notice, you are prohibited from removing or 15516  
attempting to remove the money, property, or credits until 15517  
expressly permitted by the court. Any violation of this 15518  
prohibition subjects you to punishment for contempt of court. 15519

The law of Ohio and the United States provides that certain 15520  
benefit payments cannot be taken from you to pay a debt. Typical 15521  
among the benefits that cannot be attached or executed upon by a 15522  
creditor are the following: 15523

(1) Workers' compensation benefits; 15524

(2) Unemployment compensation payments; 15525

(3) Cash assistance payments under the Ohio works first 15526  
program; 15527

(4) Benefits and services under the prevention, retention, 15528

and contingency program;	15529
(5) Disability <u>financial</u> assistance administered by the Ohio department of job and family services;	15530 15531
(6) Social security benefits;	15532
(7) Supplemental security income (S.S.I.);	15533
(8) Veteran's benefits;	15534
(9) Black lung benefits;	15535
(10) Certain pensions.	15536
There may be other benefits not included in the above list that apply in your case.	15537 15538
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	15539 15540 15541 15542 15543 15544 15545 15546 15547 15548 15549 15550 15551 15552 15553 15554 15555 15556 15557 15558

your money, property, or credits, other than personal earnings, in 15559  
the possession or control of the garnishee, if any, that can be 15560  
used to satisfy all or part of the judgment you owe to the 15561  
judgment creditor. 15562

If you request a hearing by delivering your request for 15563  
hearing no later than the end of the fifth business day after you 15564  
receive this notice, it will be conducted in ..... courtroom 15565  
....., (address of court), at ..... m. on ....., 15566  
..... You may request the court to conduct the hearing before 15567  
this date by indicating your request in the space provided on the 15568  
form; the court then will send you notice of any change in the 15569  
date, time, or place of the hearing. If you do not request a 15570  
hearing by delivering your request for a hearing no later than the 15571  
end of the fifth business day after you receive this notice, some 15572  
of your money, property, or credits, other than personal earnings, 15573  
will be paid to the judgment creditor. 15574

If you have any questions concerning this matter, you may 15575  
contact the office of the clerk of this court. If you want legal 15576  
representation, you should contact your lawyer immediately. If you 15577  
need the name of a lawyer, contact the local bar association. 15578

..... 15579

Clerk of the Court 15580

..... 15581

Date" 15582

(b) The request for hearing form that must be served upon the 15583  
judgment debtor shall have attached to it a postage-paid, 15584  
self-addressed envelope or shall be on a postage-paid 15585  
self-addressed postcard, and shall be in substantially the 15586  
following form: 15587

"(Name and Address of Court) 15588

Case Number ..... Date ..... 15589

REQUEST FOR HEARING 15590

I dispute the judgment creditor's right to garnish my money, 15591  
property, or credits, other than personal earnings, in the above 15592  
case and request that a hearing in this matter be held 15593  
..... 15594  
(Insert "on" or "earlier than") 15595  
the date and time set forth in the document entitled "NOTICE TO 15596  
THE JUDGMENT DEBTOR" that I received with this request form. 15597  
I dispute the judgment creditor's right to garnish my 15598  
property for the following reasons: 15599  
..... 15600  
(Optional) 15601  
..... 15602  
..... 15603  
I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL 15604  
BE HEARD OR CONSIDERED AT THE HEARING. 15605  
..... 15606  
(Name of Judgment Debtor) 15607  
..... 15608  
(Signature) 15609  
..... 15610  
(Date) 15611  
WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A 15612  
REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK 15613  
OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, 15614  
YOU WAIVE YOUR RIGHT TO A HEARING AND SOME OF YOUR MONEY, 15615  
PROPERTY, OR CREDITS, OTHER THAN PERSONAL EARNINGS, NOW IN THE 15616  
POSSESSION OF (GARNISHEE'S NAME) WILL BE PAID TO (JUDGMENT 15617  
CREDITOR'S NAME) TO SATISFY SOME OF YOUR DEBT TO (JUDGMENT 15618  
CREDITOR'S NAME). " 15619  
(2) The judgment debtor may receive a hearing in accordance 15620



with this division by delivering a written request for hearing to 15621  
the court within five business days after receipt of the notice 15622  
provided pursuant to division (C)(1) of this section. The request 15623  
may set forth the judgment debtor's reasons for disputing the 15624  
judgment creditor's right to garnish the money, property, or 15625  
credits, other than personal earnings; however, neither the 15626  
judgment debtor's inclusion of nor failure to include those 15627  
reasons upon the request constitutes a waiver of any defense of 15628  
the judgment debtor or affects the judgment debtor's right to 15629  
produce evidence at the hearing. If the request is made by the 15630  
judgment debtor within the prescribed time, the hearing shall be 15631  
limited to a consideration of the amount of money, property, or 15632  
credits, other than personal earnings, of the judgment debtor in 15633  
the hands of the garnishee, if any, that can be used to satisfy 15634  
all or part of the debt owed by the judgment debtor to the 15635  
judgment creditor. If a request for a hearing is not received by 15636  
the court within the prescribed time, the hearing scheduled 15637  
pursuant to division (A) of this section shall be canceled unless 15638  
the court grants the judgment debtor a continuance in accordance 15639  
with division (C)(3) of this section. 15640

(3) If the judgment debtor does not request a hearing in the 15641  
action within the prescribed time pursuant to division (C)(2) of 15642  
this section, the court nevertheless may grant a continuance of 15643  
the scheduled hearing if the judgment debtor, prior to the time at 15644  
which the hearing was scheduled, as indicated on the notice to the 15645  
judgment debtor required by division (C)(1) of this section, 15646  
establishes a reasonable justification for failure to request the 15647  
hearing within the prescribed time. If the court grants a 15648  
continuance of the hearing, it shall cause the matter to be set 15649  
for hearing as soon as practicable thereafter. The continued 15650  
hearing shall be conducted in accordance with division (C)(2) of 15651  
this section. 15652

(4) The court may conduct the hearing on the matter prior to 15653  
the time at which the hearing was scheduled, as indicated on the 15654  
notice to the judgment debtor required by division (C)(1) of this 15655  
section, upon the request of the judgment debtor. The parties 15656  
shall be sent notice, by the clerk of the court, by regular mail, 15657  
of any change in the date, time, or place of the hearing. 15658

(5) If the scheduled hearing is canceled and no continuance 15659  
is granted, the court shall issue an order to the garnishee to pay 15660  
all or some of the money, property, or credits, other than 15661  
personal earnings, of the judgment debtor in the possession of the 15662  
garnishee at the time of service of the notice and order into 15663  
court if they have not already been paid to the court. This order 15664  
shall be based on the answer of the garnishee filed pursuant to 15665  
this section. If the scheduled hearing is conducted or if it is 15666  
continued and conducted, the court shall determine at the hearing 15667  
the amount of the money, property, or credits, other than personal 15668  
earnings, of the judgment debtor in the possession of the 15669  
garnishee at the time of service of the notice and order, if any, 15670  
that can be used to satisfy all or part of the debt owed by the 15671  
judgment debtor to the judgment creditor, and issue an order, 15672  
accordingly, to the garnishee to pay that amount into court if it 15673  
has not already been paid to the court. 15674

(D) The notice to the judgment debtor form and the request 15675  
for hearing form described in division (C) of this section shall 15676  
be sent by the clerk by ordinary or regular mail service unless 15677  
the judgment creditor requests that service be made in accordance 15678  
with the Rules of Civil Procedure, in which case the forms shall 15679  
be served in accordance with the Rules of Civil Procedure. Any 15680  
court of common pleas that issues an order of garnishment of 15681  
property, other than personal earnings, under this section has 15682  
jurisdiction to serve process pursuant to this section upon a 15683  
garnishee who does not reside within the jurisdiction of the 15684

court. Any county court or municipal court that issues an order of garnishment of property, other than personal earnings, under this section has jurisdiction to serve process pursuant to this section upon a garnishee who does not reside within the jurisdiction of the court.

**Sec. 2743.02.** (A)(1) The state hereby waives its immunity from liability, except as provided for the office of the state fire marshal in division (G)(1) of section 9.60 and division (B) of section 3737.221 of the Revised Code and subject to division (H) of this section, and consents to be sued, and have its liability determined, in the court of claims created in this chapter in accordance with the same rules of law applicable to suits between private parties, except that the determination of liability is subject to the limitations set forth in this chapter and, in the case of state universities or colleges, in section 3345.40 of the Revised Code, and except as provided in division (A)(2) of this section. To the extent that the state has previously consented to be sued, this chapter has no applicability.

Except in the case of a civil action filed by the state, filing a civil action in the court of claims results in a complete waiver of any cause of action, based on the same act or omission, which the filing party has against any officer or employee, as defined in section 109.36 of the Revised Code. The waiver shall be void if the court determines that the act or omission was manifestly outside the scope of the officer's or employee's office or employment or that the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(2) If a claimant proves in the court of claims that an officer or employee, as defined in section 109.36 of the Revised Code, would have personal liability for the officer's or

employee's acts or omissions but for the fact that the officer or 15716  
employee has personal immunity under section 9.86 of the Revised 15717  
Code, the state shall be held liable in the court of claims in any 15718  
action that is timely filed pursuant to section 2743.16 of the 15719  
Revised Code and that is based upon the acts or omissions. 15720

(B) The state hereby waives the immunity from liability of 15721  
all hospitals owned or operated by one or more political 15722  
subdivisions and consents for them to be sued, and to have their 15723  
liability determined, in the court of common pleas, in accordance 15724  
with the same rules of law applicable to suits between private 15725  
parties, subject to the limitations set forth in this chapter. 15726  
This division is also applicable to hospitals owned or operated by 15727  
political subdivisions which have been determined by the supreme 15728  
court to be subject to suit prior to July 28, 1975. 15729

(C) Any hospital, as defined in section 2305.113 of the 15730  
Revised Code, may purchase liability insurance covering its 15731  
operations and activities and its agents, employees, nurses, 15732  
interns, residents, staff, and members of the governing board and 15733  
committees, and, whether or not such insurance is purchased, may, 15734  
to such extent as its governing board considers appropriate, 15735  
indemnify or agree to indemnify and hold harmless any such person 15736  
against expense, including attorney's fees, damage, loss, or other 15737  
liability arising out of, or claimed to have arisen out of, the 15738  
death, disease, or injury of any person as a result of the 15739  
negligence, malpractice, or other action or inaction of the 15740  
indemnified person while acting within the scope of the 15741  
indemnified person's duties or engaged in activities at the 15742  
request or direction, or for the benefit, of the hospital. Any 15743  
hospital electing to indemnify such persons, or to agree to so 15744  
indemnify, shall reserve such funds as are necessary, in the 15745  
exercise of sound and prudent actuarial judgment, to cover the 15746  
potential expense, fees, damage, loss, or other liability. The 15747

superintendent of insurance may recommend, or, if such hospital 15748  
requests the superintendent to do so, the superintendent shall 15749  
recommend, a specific amount for any period that, in the 15750  
superintendent's opinion, represents such a judgment. This 15751  
authority is in addition to any authorization otherwise provided 15752  
or permitted by law. 15753

(D) Recoveries against the state shall be reduced by the 15754  
aggregate of insurance proceeds, disability award, or other 15755  
collateral recovery received by the claimant. This division does 15756  
not apply to civil actions in the court of claims against a state 15757  
university or college under the circumstances described in section 15758  
3345.40 of the Revised Code. The collateral benefits provisions of 15759  
division (B)(2) of that section apply under those circumstances. 15760

(E) The only defendant in original actions in the court of 15761  
claims is the state. The state may file a third-party complaint or 15762  
counterclaim in any civil action, except a civil action for two 15763  
thousand five hundred dollars or less, that is filed in the court 15764  
of claims. 15765

(F) A civil action against an officer or employee, as defined 15766  
in section 109.36 of the Revised Code, that alleges that the 15767  
officer's or employee's conduct was manifestly outside the scope 15768  
of the officer's or employee's employment or official 15769  
responsibilities, or that the officer or employee acted with 15770  
malicious purpose, in bad faith, or in a wanton or reckless manner 15771  
shall first be filed against the state in the court of claims, 15772  
which has exclusive, original jurisdiction to determine, 15773  
initially, whether the officer or employee is entitled to personal 15774  
immunity under section 9.86 of the Revised Code and whether the 15775  
courts of common pleas have jurisdiction over the civil action. 15776

The filing of a claim against an officer or employee under 15777  
this division tolls the running of the applicable statute of 15778  
limitations until the court of claims determines whether the 15779

officer or employee is entitled to personal immunity under section 15780  
9.86 of the Revised Code. 15781

(G) Whenever a claim lies against an officer or employee who 15782  
is a member of the Ohio national guard, and the officer or 15783  
employee was, at the time of the act or omission complained of, 15784  
subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 15785  
U.S.C. 2671, et seq., then the Federal Tort Claims Act is the 15786  
exclusive remedy of the claimant and the state has no liability 15787  
under this section. 15788

(H) If an inmate of a state correctional institution has a 15789  
claim against the state for the loss of or damage to property and 15790  
the amount claimed does not exceed three hundred dollars, before 15791  
commencing an action against the state in the court of claims, the 15792  
inmate shall file a claim for the loss or damage under the rules 15793  
adopted by the director of rehabilitation and correction pursuant 15794  
to this division. The inmate shall file the claim within the time 15795  
allowed for commencement of a civil action under section 2743.16 15796  
of the Revised Code. If the state admits or compromises the claim, 15797  
the director shall make payment from a fund designated by the 15798  
director for that purpose. If the state denies the claim or does 15799  
not compromise the claim at least sixty days prior to expiration 15800  
of the time allowed for commencement of a civil action based upon 15801  
the loss or damage under section 2743.16 of the Revised Code, the 15802  
inmate may commence an action in the court of claims under this 15803  
chapter to recover damages for the loss or damage. 15804

The director of rehabilitation and correction shall adopt 15805  
rules pursuant to Chapter 119. of the Revised Code to implement 15806  
this division. 15807

**Sec. 2915.01.** As used in this chapter: 15808

(A) "Bookmaking" means the business of receiving or paying 15809  
off bets. 15810

(B) "Bet" means the hazarding of anything of value upon the result of an event, undertaking, or contingency, but does not include a bona fide business risk.

(C) "Scheme of chance" means a slot machine, lottery, numbers game, pool, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo.

(D) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

(E) "Game of chance conducted for profit" means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.

(F) "Gambling device" means any of the following:

(1) A book, totalizer, or other equipment for recording bets;

(2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;

(3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;

(4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes;

(5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter.

(G) "Gambling offense" means any of the following:

(1) A violation of section 2915.02, 2915.03, 2915.04, 2915.05, 2915.07, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.10, or 2915.11 of the Revised Code;

(2) A violation of an existing or former municipal ordinance 15840  
or law of this or any other state or the United States 15841  
substantially equivalent to any section listed in division (G)(1) 15842  
of this section or a violation of section 2915.06 of the Revised 15843  
Code as it existed prior to July 1, 1996; 15844

(3) An offense under an existing or former municipal 15845  
ordinance or law of this or any other state or the United States, 15846  
of which gambling is an element; 15847

(4) A conspiracy or attempt to commit, or complicity in 15848  
committing, any offense under division (G)(1), (2), or (3) of this 15849  
section. 15850

(H) Except as otherwise provided in this chapter, "charitable 15851  
organization" means any tax exempt religious, educational, 15852  
veteran's, fraternal, service, nonprofit medical, volunteer rescue 15853  
service, volunteer firefighter's, senior citizen's, youth 15854  
athletic, amateur athletic, or youth athletic park organization. 15855  
An organization is tax exempt if the organization is, and has 15856  
received from the internal revenue service a determination letter 15857  
that currently is in effect stating that the organization is, 15858  
exempt from federal income taxation under subsection 501(a) and 15859  
described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 15860  
501(c)(10), or 501(c)(19) of the Internal Revenue Code. To qualify 15861  
as a charitable organization, an organization, except a volunteer 15862  
rescue service or volunteer fire fighter's organization, shall 15863  
have been in continuous existence as such in this state for a 15864  
period of two years immediately preceding either the making of an 15865  
application for a bingo license under section 2915.08 of the 15866  
Revised Code or the conducting of any scheme of chance or game of 15867  
chance as provided in division (C) of section 2915.02 of the 15868  
Revised Code. A charitable organization that is exempt from 15869  
federal income taxation under subsection 501(a) and described in 15870  
subsection 501(c)(3) of the Internal Revenue Code and that is 15871



created by a veteran's organization or a fraternal organization 15872  
does not have to have been in continuous existence as such in this 15873  
state for a period of two years immediately preceding either the 15874  
making of an application for a bingo license under section 2915.08 15875  
of the Revised Code or the conducting of any scheme of chance or 15876  
game of chance as provided in division (D) of section 2915.02 of 15877  
the Revised Code. 15878

(I) "Religious organization" means any church, body of 15879  
communicants, or group that is not organized or operated for 15880  
profit and that gathers in common membership for regular worship 15881  
and religious observances. 15882

(J) "Educational organization" means any organization within 15883  
this state that is not organized for profit, the ~~exclusive~~ primary 15884  
purpose of which is to educate and develop the capabilities of 15885  
individuals through instruction, ~~and that operates or contributes~~ 15886  
~~to~~ by means of operating or contributing to the support of a 15887  
school, academy, college, or university. 15888

(K) "Veteran's organization" means any individual post or 15889  
state headquarters of a national veteran's association or an 15890  
auxiliary unit of any individual post of a national veteran's 15891  
association, which post, state headquarters, or auxiliary unit has 15892  
been in continuous existence in this state for at least two years 15893  
and incorporated as a nonprofit corporation ~~for at least two years~~ 15894  
and either has received a letter from the state headquarters of 15895  
the national veteran's association indicating that the individual 15896  
post or auxiliary unit is in good standing with the national 15897  
veteran's association or has received a letter from the national 15898  
veteran's association indicating that the state headquarters is in 15899  
good standing with the national veteran's association. As used in 15900  
this division, "national veteran's association" means any 15901  
veteran's association that has been in continuous existence as 15902  
such for a period of at least five years and either is 15903

incorporated by an act of the United States congress or has a 15904  
national dues-paying membership of at least five thousand persons. 15905

(L) "Volunteer firefighter's organization" means any 15906  
organization of volunteer firefighters, as defined in section 15907  
146.01 of the Revised Code, that is organized and operated 15908  
exclusively to provide financial support for a volunteer fire 15909  
department or a volunteer fire company and that is recognized or 15910  
ratified by a county, municipal corporation, or township. 15911

(M) "Fraternal organization" means any society, order, state 15912  
headquarters, or association within this state, except a college 15913  
or high school fraternity, that is not organized for profit, that 15914  
is a branch, lodge, or chapter of a national or state 15915  
organization, that exists exclusively for the common business or 15916  
sodality of its members, and that has been in continuous existence 15917  
in this state for a period of five years. 15918

(N) "Volunteer rescue service organization" means any 15919  
organization of volunteers organized to function as an emergency 15920  
medical service organization, as defined in section 4765.01 of the 15921  
Revised Code. 15922

(O) "Service organization" means any organization, not 15923  
organized for profit, that is organized and operated exclusively 15924  
to provide, or to contribute to the support of organizations or 15925  
institutions organized and operated exclusively to provide, 15926  
medical and therapeutic services for persons who are crippled, 15927  
born with birth defects, or have any other mental or physical 15928  
defect or those organized and operated exclusively to protect, or 15929  
to contribute to the support of organizations or institutions 15930  
organized and operated exclusively to protect, animals from 15931  
inhumane treatment. 15932

(P) "Nonprofit medical organization" means any organization 15933  
that has been incorporated as a nonprofit corporation for at least 15934

five years and that has continuously operated and will be operated 15935  
exclusively to provide, or to contribute to the support of 15936  
organizations or institutions organized and operated exclusively 15937  
to provide, hospital, medical, research, or therapeutic services 15938  
for the public. 15939

(Q) "Senior citizen's organization" means any private 15940  
organization, not organized for profit, that is organized and 15941  
operated exclusively to provide recreational or social services 15942  
for persons who are fifty-five years of age or older and that is 15943  
described and qualified under subsection 501(c)(3) of the Internal 15944  
Revenue Code. 15945

(R) "Charitable bingo game" means any bingo game described in 15946  
division (S)(1) or (2) of this section that is conducted by a 15947  
charitable organization that has obtained a license pursuant to 15948  
section 2915.08 of the Revised Code and the proceeds of which are 15949  
used for a charitable purpose. 15950

(S) "Bingo" means either of the following: 15951

(1) A game with all of the following characteristics: 15952

(a) The participants use bingo cards or sheets, including 15953  
paper formats and electronic representation or image formats, that 15954  
are divided into twenty-five spaces arranged in five horizontal 15955  
and five vertical rows of spaces, with each space, except the 15956  
central space, being designated by a combination of a letter and a 15957  
number and with the central space being designated as a free 15958  
space. 15959

(b) The participants cover the spaces on the bingo cards or 15960  
sheets that correspond to combinations of letters and numbers that 15961  
are announced by a bingo game operator. 15962

(c) A bingo game operator announces combinations of letters 15963  
and numbers that appear on objects that a bingo game operator 15964  
selects by chance, either manually or mechanically, from a 15965

receptacle that contains seventy-five objects at the beginning of 15966  
each game, each object marked by a different combination of a 15967  
letter and a number that corresponds to one of the seventy-five 15968  
possible combinations of a letter and a number that can appear on 15969  
the bingo cards or sheets. 15970

(d) The winner of the bingo game includes any participant who 15971  
properly announces during the interval between the announcements 15972  
of letters and numbers as described in division (S)(1)(c) of this 15973  
section, that a predetermined and preannounced pattern of spaces 15974  
has been covered on a bingo card or sheet being used by the 15975  
participant. 15976

(2) Instant bingo, punch boards, and raffles. 15977

(T) "Conduct" means to back, promote, organize, manage, carry 15978  
on, sponsor, or prepare for the operation of bingo or a game of 15979  
chance. 15980

(U) "Bingo game operator" means any person, except security 15981  
personnel, who performs work or labor at the site of bingo, 15982  
including, but not limited to, collecting money from participants, 15983  
handing out bingo cards or sheets or objects to cover spaces on 15984  
bingo cards or sheets, selecting from a receptacle the objects 15985  
that contain the combination of letters and numbers that appear on 15986  
bingo cards or sheets, calling out the combinations of letters and 15987  
numbers, distributing prizes, selling or redeeming instant bingo 15988  
tickets or cards, supervising the operation of a punch board, 15989  
selling raffle tickets, selecting raffle tickets from a receptacle 15990  
and announcing the winning numbers in a raffle, and preparing, 15991  
selling, and serving food or beverages. 15992

(V) "Participant" means any person who plays bingo. 15993

(W) "Bingo session" means a period that includes both of the 15994  
following: 15995

(1) Not to exceed five continuous hours for the conduct of 15996

one or more games described in division (S)(1) of this section, 15997  
instant bingo, and seal cards; 15998

(2) A period for the conduct of instant bingo and seal cards 15999  
for not more than two hours before and not more than two hours 16000  
after the period described in division (W)(1) of this section. 16001

(X) "Gross receipts" means all money or assets, including 16002  
admission fees, that a person receives from bingo without the 16003  
deduction of any amounts for prizes paid out or for the expenses 16004  
of conducting bingo. "Gross receipts" does not include any money 16005  
directly taken in from the sale of food or beverages by a 16006  
charitable organization conducting bingo, or by a bona fide 16007  
auxiliary unit or society of a charitable organization conducting 16008  
bingo, provided all of the following apply: 16009

(1) The auxiliary unit or society has been in existence as a 16010  
bona fide auxiliary unit or society of the charitable organization 16011  
for at least two years prior to conducting bingo. 16012

(2) The person who purchases the food or beverage receives 16013  
nothing of value except the food or beverage and items customarily 16014  
received with the purchase of that food or beverage. 16015

(3) The food and beverages are sold at customary and 16016  
reasonable prices. 16017

(Y) "Security personnel" includes any person who either is a 16018  
sheriff, deputy sheriff, marshal, deputy marshal, township 16019  
constable, or member of an organized police department of a 16020  
municipal corporation or has successfully completed a peace 16021  
officer's training course pursuant to sections 109.71 to 109.79 of 16022  
the Revised Code and who is hired to provide security for the 16023  
premises on which bingo is conducted. 16024

(Z) "Charitable purpose" means that the net profit of bingo, 16025  
other than instant bingo, is used by, or is given, donated, or 16026  
otherwise transferred to, any of the following: 16027

(1) Any organization that is described in subsection 16028  
509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code 16029  
and is either a governmental unit or an organization that is tax 16030  
exempt under subsection 501(a) and described in subsection 16031  
501(c)(3) of the Internal Revenue Code; 16032

(2) A veteran's organization that is a post, chapter, or 16033  
organization of veterans, or an auxiliary unit or society of, or a 16034  
trust or foundation for, any such post, chapter, or organization 16035  
organized in the United States or any of its possessions, at least 16036  
seventy-five per cent of the members of which are veterans and 16037  
substantially all of the other members of which are individuals 16038  
who are spouses, widows, or widowers of veterans, or such 16039  
individuals, provided that no part of the net earnings of such 16040  
post, chapter, or organization inures to the benefit of any 16041  
private shareholder or individual, and further provided that the 16042  
net profit is used by the post, chapter, or organization for the 16043  
charitable purposes set forth in division (B)(12) of section 16044  
5739.02 of the Revised Code, is used for awarding scholarships to 16045  
or for attendance at an institution mentioned in division (B)(12) 16046  
of section 5739.02 of the Revised Code, is donated to a 16047  
governmental agency, or is used for nonprofit youth activities, 16048  
the purchase of United States or Ohio flags that are donated to 16049  
schools, youth groups, or other bona fide nonprofit organizations, 16050  
promotion of patriotism, or disaster relief; 16051

(3) A fraternal organization that has been in continuous 16052  
existence in this state for fifteen years and that uses the net 16053  
profit exclusively for religious, charitable, scientific, 16054  
literary, or educational purposes, or for the prevention of 16055  
cruelty to children or animals, if contributions for such use 16056  
would qualify as a deductible charitable contribution under 16057  
subsection 170 of the Internal Revenue Code; 16058

(4) A volunteer firefighter's organization that uses the net 16059

profit for the purposes set forth in division (L) of this section. 16060

(AA) "Internal Revenue Code" means the "Internal Revenue Code 16061  
of 1986," 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter 16062  
amended. 16063

(BB) "Youth athletic organization" means any organization, 16064  
not organized for profit, that is organized and operated 16065  
exclusively to provide financial support to, or to operate, 16066  
athletic activities for persons who are twenty-one years of age or 16067  
younger by means of sponsoring, organizing, operating, or 16068  
contributing to the support of an athletic team, club, league, or 16069  
association. 16070

(CC) "Youth athletic park organization" means any 16071  
organization, not organized for profit, that satisfies both of the 16072  
following: 16073

(1) It owns, operates, and maintains playing fields that 16074  
satisfy both of the following: 16075

(a) The playing fields are used at least one hundred days per 16076  
year for athletic activities by one or more organizations, not 16077  
organized for profit, each of which is organized and operated 16078  
exclusively to provide financial support to, or to operate, 16079  
athletic activities for persons who are eighteen years of age or 16080  
younger by means of sponsoring, organizing, operating, or 16081  
contributing to the support of an athletic team, club, league, or 16082  
association. 16083

(b) The playing fields are not used for any profit-making 16084  
activity at any time during the year. 16085

(2) It uses the proceeds of bingo it conducts exclusively for 16086  
the operation, maintenance, and improvement of its playing fields 16087  
of the type described in division (CC)(1) of this section. 16088

(DD) "Amateur athletic organization" means any organization, 16089

not organized for profit, that is organized and operated 16090  
exclusively to provide financial support to, or to operate, 16091  
athletic activities for persons who are training for amateur 16092  
athletic competition that is sanctioned by a national governing 16093  
body as defined in the "Amateur Sports Act of 1978," 90 Stat. 16094  
3045, 36 U.S.C.A. 373. 16095

(EE) "Bingo supplies" means bingo cards or sheets; instant 16096  
bingo tickets or cards; electronic bingo aids; raffle tickets; 16097  
punch boards; seal cards; instant bingo ticket dispensers; and 16098  
devices for selecting or displaying the combination of bingo 16099  
letters and numbers or raffle tickets. Items that are "bingo 16100  
supplies" are not gambling devices if sold or otherwise provided, 16101  
and used, in accordance with this chapter. For purposes of this 16102  
chapter, "bingo supplies" are not to be considered equipment used 16103  
to conduct a bingo game. 16104

(FF) "Instant bingo" means a form of bingo that uses folded 16105  
or banded tickets or paper cards with perforated break-open tabs, 16106  
a face of which is covered or otherwise hidden from view to 16107  
conceal a number, letter, or symbol, or set of numbers, letters, 16108  
or symbols, some of which have been designated in advance as prize 16109  
winners. "Instant bingo" includes seal cards. "Instant bingo" does 16110  
not include any device that is activated by the insertion of a 16111  
coin, currency, token, or an equivalent, and that contains as one 16112  
of its components a video display monitor that is capable of 16113  
displaying numbers, letters, symbols, or characters in winning or 16114  
losing combinations. 16115

(GG) "Seal card" means a form of instant bingo that uses 16116  
instant bingo tickets in conjunction with a board or placard that 16117  
contains one or more seals that, when removed or opened, reveal 16118  
predesignated winning numbers, letters, or symbols. 16119

(HH) "Raffle" means a form of bingo in which the one or more 16120  
prizes are won by one or more persons who have purchased a raffle 16121



ticket. The one or more winners of the raffle are determined by 16122  
drawing a ticket stub or other detachable section from a 16123  
receptacle containing ticket stubs or detachable sections 16124  
corresponding to all tickets sold for the raffle. 16125

(II) "Punch board" means a board containing a number of holes 16126  
or receptacles of uniform size in which are placed, mechanically 16127  
and randomly, serially numbered slips of paper that may be punched 16128  
or drawn from the hole or receptacle when used in conjunction with 16129  
instant bingo. A player may punch or draw the numbered slips of 16130  
paper from the holes or receptacles and obtain the prize 16131  
established for the game if the number drawn corresponds to a 16132  
winning number or, if the punch board includes the use of a seal 16133  
card, a potential winning number. 16134

(JJ) "Gross profit" means gross receipts minus the amount 16135  
actually expended for the payment of prize awards. 16136

(KK) "Net profit" means gross profit minus expenses. 16137

(LL) "Expenses" means the reasonable amount of gross profit 16138  
actually expended for all of the following: 16139

(1) The purchase or lease of bingo supplies; 16140

(2) The annual license fee required under section 2915.08 of 16141  
the Revised Code; 16142

(3) Bank fees and service charges for a bingo session or game 16143  
account described in section 2915.10 of the Revised Code; 16144

(4) Audits and accounting services; 16145

(5) Safes; 16146

(6) Cash registers; 16147

(7) Hiring security personnel; 16148

(8) Advertising bingo; 16149

(9) Renting premises in which to conduct bingo; 16150

(10) Tables and chairs;	16151
(11) <u>Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;</u>	16152 16153 16154 16155
(12) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the attorney general under division (B)(1) of section 2915.08 of the Revised Code.	16156 16157 16158 16159
(MM) "Person" has the same meaning as in section 1.59 of the Revised Code and includes any firm or any other legal entity, however organized.	16160 16161 16162
(NN) "Revoke" means to void permanently all rights and privileges of the holder of a license issued under section 2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable gaming license issued by another jurisdiction.	16163 16164 16165 16166
(OO) "Suspend" means to interrupt temporarily all rights and privileges of the holder of a license issued under section 2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable gaming license issued by another jurisdiction.	16167 16168 16169 16170
(PP) "Distributor" means any person who purchases or obtains bingo supplies and who sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state.	16171 16172 16173 16174
(QQ) "Manufacturer" means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.	16175 16176 16177 16178
(RR) "Gross annual revenues" means the annual gross receipts derived from the conduct of bingo described in division (S)(1) of	16179 16180

this section plus the annual net profit derived from the conduct 16181  
of bingo described in division (S)(2) of this section. 16182

(SS) "Instant bingo ticket dispenser" means a mechanical 16183  
device that dispenses an instant bingo ticket or card as the sole 16184  
item of value dispensed and that has the following 16185  
characteristics: 16186

(1) It is activated upon the insertion of United States 16187  
currency. 16188

(2) It performs no gaming functions. 16189

(3) It does not contain a video display monitor or generate 16190  
noise. 16191

(4) It is not capable of displaying any numbers, letters, 16192  
symbols, or characters in winning or losing combinations. 16193

(5) It does not simulate or display rolling or spinning 16194  
reels. 16195

(6) It is incapable of determining whether a dispensed bingo 16196  
ticket or card is a winning or nonwinning ticket or card and 16197  
requires a winning ticket or card to be paid by a bingo game 16198  
operator. 16199

(7) It may provide accounting and security features to aid in 16200  
accounting for the instant bingo tickets or cards it dispenses. 16201

(8) It is not part of an electronic network and is not 16202  
interactive. 16203

(TT)(1) "Electronic bingo aid" means an electronic device 16204  
used by a participant to monitor bingo cards or sheets purchased 16205  
at the time and place of a bingo session and that does all of the 16206  
following: 16207

(a) It provides a means for a participant to input numbers 16208  
and letters announced by a bingo caller. 16209

(b) It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.

(c) It identifies a winning bingo pattern.

(2) "Electronic bingo aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.

(UU) "Deal of instant bingo tickets" means a single game of instant bingo tickets all with the same serial number.

(VV) "Slot\_ machine means either of the following:

(1) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain, the outcome of which is determined largely or wholly by chance;

(2) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct or dispense bingo or a scheme or game of chance.

(WW) "Net profit from the proceeds of the sale of instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies.

(XX) "Charitable instant bingo organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and is a charitable organization as defined in this section. A "charitable instant bingo organization" does not include a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in

subsection 501(c)(3) of the Internal Revenue Code and that is 16240  
created by a veteran's organization or a fraternal organization in 16241  
regards to bingo conducted or assisted by a veteran's organization 16242  
or a fraternal organization pursuant to section 2915.13 of the 16243  
Revised Code. 16244

(YY) "Game flare" means the board or placard that accompanies 16245  
each deal of instant bingo tickets and that has printed on or 16246  
affixed to it the following information for the game: 16247

(1) The name of the game; 16248

(2) The manufacturer's name or distinctive logo; 16249

(3) The form number; 16250

(4) The ticket count; 16251

(5) The prize structure, including the number of winning 16252  
instant bingo tickets by denomination and the respective winning 16253  
symbol or number combinations for the winning instant bingo 16254  
tickets; 16255

(6) The cost per play; 16256

(7) The serial number of the game. 16257

**Sec. 2915.02.** (A) No person shall do any of the following: 16258

(1) Engage in bookmaking, or knowingly engage in conduct that 16259  
facilitates bookmaking; 16260

(2) Establish, promote, or operate or knowingly engage in 16261  
conduct that facilitates any game of chance conducted for profit 16262  
~~or~~, any scheme of chance other than a pool, or any pool conducted 16263  
for profit; 16264

(3) Knowingly procure, transmit, exchange, or engage in 16265  
conduct that facilitates the procurement, transmission, or 16266  
exchange of information for use in establishing odds or 16267  
determining winners in connection with bookmaking or with any game 16268

of chance conducted for profit or any scheme of chance;	16269
(4) Engage in betting or in playing any scheme or game of chance as a substantial source of income or livelihood;	16270 16271
(5) With purpose to violate division (A)(1), (2), (3), or (4) of this section, acquire, possess, control, or operate any gambling device.	16272 16273 16274
(B) For purposes of division (A)(1) of this section, a person facilitates bookmaking if the person in any way knowingly aids an illegal bookmaking operation, including, without limitation, placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of division (A)(2) of this section, a person facilitates a game of chance conducted for profit or a scheme of chance if the person in any way knowingly aids in the conduct or operation of any such game or scheme, including, without limitation, playing any such game or scheme.	16275 16276 16277 16278 16279 16280 16281 16282 16283
(C) This section does not prohibit conduct in connection with gambling expressly permitted by law.	16284 16285
(D) This section does not apply to any of the following:	16286
(1) Games of chance, if all of the following apply:	16287
(a) The games of chance are not craps for money or roulette for money.	16288 16289
(b) The games of chance are conducted by a charitable organization that is, and has received from the internal revenue service a determination letter that is currently in effect, stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code.	16290 16291 16292 16293 16294 16295
(c) The games of chance are conducted at festivals of the charitable organization that are conducted either for a period of four consecutive days or less and not more than twice a year or	16296 16297 16298

for a period of five consecutive days not more than once a year, 16299  
and are conducted on premises owned by the charitable organization 16300  
for a period of no less than one year immediately preceding the 16301  
conducting of the games of chance, on premises leased from a 16302  
governmental unit, or on premises that are leased from a veteran's 16303  
or fraternal organization and that have been owned by the lessor 16304  
veteran's or fraternal organization for a period of no less than 16305  
one year immediately preceding the conducting of the games of 16306  
chance. 16307

A charitable organization shall not lease premises from a 16308  
veteran's or fraternal organization to conduct a festival 16309  
described in division (D)(1)(c) of this section if the veteran's 16310  
or fraternal organization already has leased the premises four 16311  
times during the preceding year to charitable organizations for 16312  
that purpose. If a charitable organization leases premises from a 16313  
veteran's or fraternal organization to conduct a festival 16314  
described in division (D)(1)(c) of this section, the charitable 16315  
organization shall not pay a rental rate for the premises per day 16316  
of the festival that exceeds the rental rate per bingo session 16317  
that a charitable organization may pay under division (B)(1) of 16318  
section 2915.09 of the Revised Code when it leases premises from 16319  
another charitable organization to conduct bingo games. 16320

(d) All of the money or assets received from the games of 16321  
chance after deduction only of prizes paid out during the conduct 16322  
of the games of chance are used by, or given, donated, or 16323  
otherwise transferred to, any organization that is described in 16324  
subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal 16325  
Revenue Code and is either a governmental unit or an organization 16326  
that is tax exempt under subsection 501(a) and described in 16327  
subsection 501(c)(3) of the Internal Revenue Code; 16328

(e) The games of chance are not conducted during, or within 16329  
ten hours of, a bingo game conducted for amusement purposes only 16330

pursuant to section 2915.12 of the Revised Code. 16331

No person shall receive any commission, wage, salary, reward, 16332  
tip, donation, gratuity, or other form of compensation, directly 16333  
or indirectly, for operating or assisting in the operation of any 16334  
game of chance. 16335

(2) Any tag fishing tournament operated under a permit issued 16336  
under section 1533.92 of the Revised Code, as "tag fishing 16337  
tournament" is defined in section 1531.01 of the Revised Code; 16338

(3) Bingo conducted by a charitable organization that holds a 16339  
license issued under section 2915.08 of the Revised Code. 16340

(E) Division (D) of this section shall not be construed to 16341  
authorize the sale, lease, or other temporary or permanent 16342  
transfer of the right to conduct games of chance, as granted by 16343  
that division, by any charitable organization that is granted that 16344  
right. 16345

(F) Whoever violates this section is guilty of gambling, a 16346  
misdemeanor of the first degree. If the offender previously has 16347  
been convicted of any gambling offense, gambling is a felony of 16348  
the fifth degree. 16349

**Sec. 2915.08.** (A)(1) Annually before the first day of 16350  
January, a charitable organization that desires to conduct bingo, 16351  
instant bingo at a bingo session, or instant bingo other than at a 16352  
bingo session shall make out, upon a form to be furnished by the 16353  
attorney general for that purpose, an application for a license to 16354  
conduct bingo, instant bingo at a bingo session, or instant bingo 16355  
other than at a bingo session and deliver that application to the 16356  
attorney general together with a license fee as follows: 16357

(a) Except as otherwise provided in this division, for a 16358  
license for the conduct of bingo, two hundred dollars; 16359

(b) For a license for the conduct of instant bingo at a bingo 16360



session or instant bingo other than at a bingo session for a 16361  
~~charitable~~ charitable organization that previously has not been 16362  
licensed under this chapter to conduct instant bingo at a bingo 16363  
session or instant bingo other than at a bingo session, a license 16364  
fee of five hundred dollars, and for any other charitable 16365  
organization, a license fee that is based upon the ~~total of all~~ 16366  
~~money or assets~~ gross profits received by ~~any person or~~ the 16367  
charitable organization from the operation of instant bingo at a 16368  
bingo session or instant bingo other than at a bingo session, 16369  
during the one-year period ending on the thirty-first day of 16370  
October of the year immediately preceding the year for which the 16371  
license is sought, and that is one of the following: 16372

(i) Five hundred dollars, if the total is fifty thousand 16373  
dollars or less; 16374

(ii) One thousand two hundred fifty dollars, if the total is 16375  
more than fifty thousand dollars but less than three hundred 16376  
thousand one dollars; 16377

(iii) Two thousand two hundred fifty dollars, if the total is 16378  
more than three hundred thousand dollars but less than six hundred 16379  
thousand one dollars; 16380

(iv) Three thousand five hundred dollars, if the total is 16381  
more than six hundred thousand dollars but less than one million 16382  
one dollars; 16383

(v) Five thousand dollars, if the total is one million one 16384  
dollars or more; 16385

(c) A reduced license fee established by the attorney general 16386  
pursuant to division (G) of this section. 16387

(d) For a license to conduct bingo for a charitable 16388  
organization that prior to ~~the effective date of this amendment~~ 16389  
the effective date of this amendment has not been licensed under 16390  
this chapter to conduct bingo, instant bingo at a bingo session, 16391

or instant bingo other than at a bingo session, a license fee 16392  
established by rule by the attorney general in accordance with 16393  
division (H) of this section. 16394

(2) The application shall be in the form prescribed by the 16395  
attorney general, shall be signed and sworn to by the applicant, 16396  
and shall contain all of the following: 16397

(a) The name and post-office address of the applicant; 16398

(b) A statement that the applicant is a charitable 16399  
organization and that it has been in continuous existence as a 16400  
charitable organization in this state for two years immediately 16401  
preceding the making of the application or for five years in the 16402  
case of a fraternal organization or a nonprofit medical 16403  
organization; 16404

(c) The location at which the organization will conduct 16405  
bingo, which location shall be within the county in which the 16406  
principal place of business of the applicant is located, the days 16407  
of the week and the times on each of those days when bingo will be 16408  
conducted, whether the organization owns, leases, or subleases the 16409  
premises, and a copy of the rental agreement if it leases or 16410  
subleases the premises; 16411

(d) A statement of the applicant's previous history, record, 16412  
and association that is sufficient to establish that the applicant 16413  
is a charitable organization, and a copy of a determination letter 16414  
that is issued by the Internal Revenue Service and states that the 16415  
organization is tax exempt under subsection 501(a) and described 16416  
in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 16417  
501(c)(19) of the Internal Revenue Code; 16418

(e) A statement as to whether the applicant has ever had any 16419  
previous application refused, whether it previously has had a 16420  
license revoked or suspended, and the reason stated by the 16421  
attorney general for the refusal, revocation, or suspension; 16422

(f) A statement of the charitable purposes for which the net profit derived from bingo, other than instant bingo, will be used, and a statement of how the net profit derived from instant bingo will be distributed in accordance with section 2915.101 of the Revised Code;

(g) Other necessary and reasonable information that the attorney general may require by rule adopted pursuant to section 111.15 of the Revised Code;

(h) If the applicant is a charitable trust as defined in section 109.23 of the Revised Code, a statement as to whether it has registered with the attorney general pursuant to section 109.26 of the Revised Code or filed annual reports pursuant to section 109.31 of the Revised Code, and, if it is not required to do either, the exemption in section 109.26 or 109.31 of the Revised Code that applies to it;

(i) If the applicant is a charitable organization as defined in section 1716.01 of the Revised Code, a statement as to whether it has filed with the attorney general a registration statement pursuant to section 1716.02 of the Revised Code and a financial report pursuant to section 1716.04 of the Revised Code, and, if it is not required to do both, the exemption in section 1716.03 of the Revised Code that applies to it;

(j) In the case of an applicant seeking to qualify as a youth athletic park organization, a statement issued by a board or body vested with authority under Chapter 755. of the Revised Code for the supervision and maintenance of recreation facilities in the territory in which the organization is located, certifying that the playing fields owned by the organization were used for at least one hundred days during the year in which the statement is issued, and were open for use to all residents of that territory, regardless of race, color, creed, religion, sex, or national

origin, for athletic activities by youth athletic organizations 16454  
that do not discriminate on the basis of race, color, creed, 16455  
religion, sex, or national origin, and that the fields were not 16456  
used for any profit-making activity at any time during the year. 16457  
That type of board or body is authorized to issue the statement 16458  
upon request and shall issue the statement if it finds that the 16459  
applicant's playing fields were so used. 16460

(3) The attorney general, within thirty days after receiving 16461  
a timely filed application from a charitable organization that has 16462  
been issued a license under this section that has not expired and 16463  
has not been revoked or suspended, shall send a temporary permit 16464  
to the applicant specifying the date on which the application was 16465  
filed with the attorney general and stating that, pursuant to 16466  
section 119.06 of the Revised Code, the applicant may continue to 16467  
conduct bingo until a new license is granted or, if the 16468  
application is rejected, until fifteen days after notice of the 16469  
rejection is mailed to the applicant. The temporary permit does 16470  
not affect the validity of the applicant's application and does 16471  
not grant any rights to the applicant except those rights 16472  
specifically granted in section 119.06 of the Revised Code. The 16473  
issuance of a temporary permit by the attorney general pursuant to 16474  
this division does not prohibit the attorney general from 16475  
rejecting the applicant's application because of acts that the 16476  
applicant committed, or actions that the applicant failed to take, 16477  
before or after the issuance of the temporary permit. 16478

(4) Within thirty days after receiving an initial license 16479  
application from a charitable organization to conduct bingo, 16480  
instant bingo at a bingo session, or instant bingo other than at a 16481  
bingo session, the attorney general shall conduct a preliminary 16482  
review of the application and notify the applicant regarding any 16483  
deficiencies. Once an application is deemed complete, or beginning 16484  
on the thirtieth day after the application is filed, if the 16485

attorney general failed to notify the applicant of any 16486  
deficiencies, the attorney general shall have an additional sixty 16487  
days to conduct an investigation and either grant or deny the 16488  
application based on findings established and communicated in 16489  
accordance with divisions (B) and (E) of this section. As an 16490  
option to granting or denying an initial license application, the 16491  
attorney general may grant a temporary license and request 16492  
additional time to conduct the investigation if the attorney 16493  
general has cause to believe that additional time is necessary to 16494  
complete the investigation and has notified the applicant in 16495  
writing about the specific concerns raised during the 16496  
investigation. 16497

(B)(1) The attorney general shall adopt rules to enforce 16498  
sections 2915.01, 2915.02, and 2915.07 to 2915.13 of the Revised 16499  
Code to ensure that bingo or instant bingo is conducted in 16500  
accordance with those sections and to maintain proper control over 16501  
the conduct of bingo or instant bingo. The rules, except rules 16502  
adopted pursuant to divisions (A)(2)(g) and (G) of this section, 16503  
shall be adopted pursuant to Chapter 119. of the Revised Code. The 16504  
attorney general shall license charitable organizations to conduct 16505  
bingo, instant bingo at a bingo session, or instant bingo other 16506  
than at a bingo session in conformance with this chapter and with 16507  
the licensing provisions of Chapter 119. of the Revised Code. 16508

(2) The attorney general may refuse to grant a license to any 16509  
organization, or revoke or suspend the license of any 16510  
organization, that does any of the following or to which any of 16511  
the following applies: 16512

(a) Fails or has failed at any time to meet any requirement 16513  
of section 109.26, 109.31, or 1716.02, or sections 2915.07 to 16514  
2915.11 of the Revised Code, or violates or has violated any 16515  
provision of sections 2915.02 or 2915.07 to 2915.13 of the Revised 16516  
Code or any rule adopted by the attorney general pursuant to this 16517

section; 16518

(b) Makes or has made an incorrect or false statement that is 16519  
material to the granting of the license in an application filed 16520  
pursuant to division (A) of this section; 16521

(c) Submits or has submitted any incorrect or false 16522  
information relating to an application if the information is 16523  
material to the granting of the license; 16524

(d) Maintains or has maintained any incorrect or false 16525  
information that is material to the granting of the license in the 16526  
records required to be kept pursuant to divisions (A) and (C) of 16527  
section 2915.10 of the Revised Code, if applicable; 16528

(e) The attorney general has good cause to believe that the 16529  
organization will not conduct bingo, instant bingo at a bingo 16530  
session, or instant bingo other than at a bingo session in 16531  
accordance with sections 2915.07 to 2915.13 of the Revised Code or 16532  
with any rule adopted by the attorney general pursuant to this 16533  
section. 16534

(3) For the purposes of division (B) of this section, any 16535  
action of an officer, trustee, agent, representative, or bingo 16536  
game operator of an organization is an action of the organization. 16537

(C) The attorney general may grant licenses to charitable 16538  
organizations that are branches, lodges, or chapters of national 16539  
charitable organizations. 16540

(D) The attorney general shall send notice in writing to the 16541  
prosecuting attorney and sheriff of the county in which the 16542  
organization will conduct bingo, instant bingo at a bingo session, 16543  
or instant bingo other than at a bingo session, as stated in its 16544  
application for a license or amended license, and to any other law 16545  
enforcement agency in that county that so requests, of all of the 16546  
following: 16547

(1) The issuance of the license;	16548
(2) The issuance of the amended license;	16549
(3) The rejection of an application for and refusal to grant a license;	16550 16551
(4) The revocation of any license previously issued;	16552
(5) The suspension of any license previously issued.	16553
(E) A license issued by the attorney general shall set forth the information contained on the application of the charitable organization that the attorney general determines is relevant, including, but not limited to, the location at which the organization will conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session and the days of the week and the times on each of those days when bingo will be conducted. If the attorney general refuses to grant or revokes or suspends a license, the attorney general shall notify the applicant in writing and specifically identify the reason for the refusal, revocation, or suspension in narrative form and, if applicable, by identifying the section of the Revised Code violated. The failure of the attorney general to give the written notice of the reasons for the refusal, revocation, or suspension or a mistake in the written notice does not affect the validity of the attorney general's refusal to grant, or the revocation or suspension of, a license. If the attorney general fails to give the written notice or if there is a mistake in the written notice, the applicant may bring an action to compel the attorney general to comply with this division or to correct the mistake, but the attorney general's order refusing to grant, or revoking or suspending, a license shall not be enjoined during the pendency of the action.	16554 16555 16556 16557 16558 16559 16560 16561 16562 16563 16564 16565 16566 16567 16568 16569 16570 16571 16572 16573 16574 16575 16576
(F) A charitable organization that has been issued a license pursuant to division (B) of this section but that cannot conduct	16577 16578

bingo or instant bingo at the location, or on the day of the week 16579  
or at the time, specified on the license due to circumstances that 16580  
make it impractical to do so may apply in writing, together with 16581  
an application fee of two hundred fifty dollars, to the attorney 16582  
general, at least thirty days prior to a change in location, day 16583  
of the week, or time, and request an amended license. The 16584  
application shall describe the causes making it impractical for 16585  
the organization to conduct bingo or instant bingo in conformity 16586  
with its license and shall indicate the location, days of the 16587  
week, and times on each of those days when it desires to conduct 16588  
bingo or instant bingo. Except as otherwise provided in this 16589  
division, the attorney general shall issue the amended license in 16590  
accordance with division (E) of this section, and the organization 16591  
shall surrender its original license to the attorney general. The 16592  
attorney general may refuse to grant an amended license according 16593  
to the terms of division (B) of this section. 16594

(G) The attorney general, by rule adopted pursuant to section 16595  
111.15 of the Revised Code, shall establish a schedule of reduced 16596  
license fees for charitable organizations that desire to conduct 16597  
bingo or instant bingo during fewer than twenty-six weeks in any 16598  
calendar year. 16599

(H) The attorney general, by rule adopted pursuant to section 16600  
111.15 of the Revised Code, shall establish license fees for the 16601  
conduct of bingo, instant bingo at a bingo session, or instant 16602  
bingo other than at a bingo session for charitable organizations 16603  
that prior to ~~the effective date of this amendment~~ the effective 16604  
date of this amendment have not been licensed to conduct bingo, 16605  
instant bingo at a bingo session, or instant bingo other than at a 16606  
bingo session under this chapter. 16607

(I) The attorney general may enter into a written contract 16608  
with any other state agency to delegate to that state agency the 16609  
powers prescribed to the attorney general under Chapter 2915. of 16610



the Revised Code. 16611

(J) The attorney general, by rule adopted pursuant to section 16612  
111.15 of the Revised Code, may adopt rules to determine the 16613  
requirements for a charitable organization that is exempt from 16614  
federal income taxation under subsection 501(a) and described in 16615  
subsection 501(c)(3) of the Internal Revenue Code to be in good 16616  
standing in the state. 16617

**Sec. 2915.09.** (A) No charitable organization that conducts 16618  
bingo shall fail to do any of the following: 16619

(1) Own all of the equipment used to conduct bingo or lease 16620  
that equipment from a charitable organization that is licensed to 16621  
conduct bingo for a rental rate that is not more than is customary 16622  
and reasonable for that equipment; 16623

(2) Use all of the gross receipts from bingo for paying 16624  
prizes, for renting premises in which to conduct bingo, for 16625  
purchasing or leasing bingo supplies used in conducting bingo, for 16626  
hiring security personnel, for advertising bingo, or for other 16627  
expenses listed in division (LL) of section 2915.01 of the Revised 16628  
Code, provided that the amount of the receipts so spent is not 16629  
more than is customary and reasonable for a similar purchase, 16630  
lease, hiring, advertising, or expense. If the building in which 16631  
bingo is conducted is owned by the charitable organization 16632  
conducting bingo and the bingo conducted includes a form of bingo 16633  
described in division (S)(1) of section 2915.01 of the Revised 16634  
Code, the charitable organization may deduct from the total amount 16635  
of the gross receipts from each session a sum equal to the lesser 16636  
of six hundred dollars or forty-five per cent of the gross 16637  
receipts from the bingo described in that division as 16638  
consideration for the use of the premises. 16639

(3) Use, or give, donate, or otherwise transfer, all of the 16640  
net profit derived from bingo, other than instant bingo, for a 16641

charitable purpose listed in its license application and described 16642  
in division (Z) of section 2915.01 of the Revised Code, or 16643  
distribute all of the net profit derived from instant bingo as 16644  
stated in its license application and in accordance with section 16645  
2915.101 of the Revised Code. 16646

(B) No charitable organization that conducts a bingo game 16647  
described in division (S)(1) of section 2915.01 of the Revised 16648  
Code shall fail to do any of the following: 16649

(1) Conduct the bingo game on premises that are owned by the 16650  
charitable organization, on premises that are owned by another 16651  
charitable organization and leased from that charitable 16652  
organization for a rental rate not in excess of the lesser of six 16653  
hundred dollars per bingo session or forty-five per cent of the 16654  
gross receipts of the bingo session, on premises that are leased 16655  
from a person other than a charitable organization for a rental 16656  
rate that is not more than is customary and reasonable for 16657  
premises that are similar in location, size, and quality but not 16658  
in excess of four hundred fifty dollars per bingo session, or on 16659  
premises that are owned by a person other than a charitable 16660  
organization, that are leased from that person by another 16661  
charitable organization, and that are subleased from that other 16662  
charitable organization by the charitable organization for a 16663  
rental rate not in excess of four hundred fifty dollars per bingo 16664  
session. If the charitable organization leases from a person other 16665  
than a charitable organization the premises on which it conducts 16666  
bingo sessions, the lessor of the premises shall provide only the 16667  
premises to the organization and shall not provide the 16668  
organization with bingo game operators, security personnel, 16669  
concessions or concession operators, bingo supplies, or any other 16670  
type of service or equipment. A charitable organization shall not 16671  
lease or sublease premises that it owns or leases to more than one 16672  
other charitable organization per calendar week for the purpose of 16673

conducting bingo sessions on the premises. A person that is not a 16674  
charitable organization shall not lease premises that it owns, 16675  
leases, or otherwise is empowered to lease to more than one 16676  
charitable organization per calendar week for conducting bingo 16677  
sessions on the premises. In no case shall more than two bingo 16678  
sessions be conducted on any premises in any calendar week. 16679

(2) Display its license conspicuously at the premises where 16680  
the bingo session is conducted; 16681

(3) Conduct the bingo session in accordance with the 16682  
definition of bingo set forth in division (S)(1) of section 16683  
2915.01 of the Revised Code. 16684

(C) No charitable organization that conducts a bingo game 16685  
described in division (S)(1) of section 2915.01 of the Revised 16686  
Code shall do any of the following: 16687

(1) Pay any compensation to a bingo game operator for 16688  
operating a bingo session that is conducted by the charitable 16689  
organization or for preparing, selling, or serving food or 16690  
beverages at the site of the bingo session, permit any auxiliary 16691  
unit or society of the charitable organization to pay compensation 16692  
to any bingo game operator who prepares, sells, or serves food or 16693  
beverages at a bingo session conducted by the charitable 16694  
organization, or permit any auxiliary unit or society of the 16695  
charitable organization to prepare, sell, or serve food or 16696  
beverages at a bingo session conducted by the charitable 16697  
organization, if the auxiliary unit or society pays any 16698  
compensation to the bingo game operators who prepare, sell, or 16699  
serve the food or beverages; 16700

(2) Pay consulting fees to any person for any services 16701  
performed in relation to the bingo session; 16702

(3) Pay concession fees to any person who provides 16703  
refreshments to the participants in the bingo session; 16704

(4) Except as otherwise provided in division (C)(4) of this section, conduct more than two bingo sessions in any seven-day period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than two bingo sessions in a seven-day period after notifying the attorney general when it will conduct the sessions.

(5) Pay out more than three thousand five hundred dollars in prizes during any bingo session that is conducted by the charitable organization;

(6) Conduct a bingo session at any time during the ten-hour period between midnight and ten a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to section 2915.12 of the Revised Code, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time, specified on its license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the attorney general for an amended license pursuant to division (F) of section 2915.08 of the Revised Code. A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license.

(7) Permit any person whom the charitable organization knows, or should have known, is under the age of eighteen to work as a

bingo game operator; 16737

(8) Permit any person whom the charitable organization knows, 16738  
or should have known, has been convicted of a felony or gambling 16739  
offense in any jurisdiction to be a bingo game operator; 16740

(9) Permit the lessor of the premises on which the bingo 16741  
session is conducted, if the lessor is not a charitable 16742  
organization, to provide the charitable organization with bingo 16743  
game operators, security personnel, concessions, bingo supplies, 16744  
or any other type of service or equipment; 16745

(10) Purchase or lease bingo supplies from any person except 16746  
a distributor issued a license under section 2915.081 of the 16747  
Revised Code; 16748

(11)(a) Use or permit the use of electronic bingo aids except 16749  
under the following circumstances: 16750

(i) For any single participant, not more than ninety bingo 16751  
faces can be played using an electronic bingo aid or aids. 16752

(ii) The charitable organization shall provide a participant 16753  
using an electronic bingo aid with corresponding paper bingo cards 16754  
or sheets. 16755

(iii) The total price of bingo faces played with an 16756  
electronic bingo aid shall be equal to the total price of the same 16757  
number of bingo faces played with a paper bingo card or sheet sold 16758  
at the same bingo session but without an electronic bingo aid. 16759

(iv) An electronic bingo aid cannot be part of an electronic 16760  
network other than a network that includes only bingo aids and 16761  
devices that are located on the premises at which the bingo is 16762  
being conducted or be interactive with any device not located on 16763  
the premises at which the bingo is being conducted. 16764

(v) An electronic bingo aid cannot be used to participate in 16765  
bingo that is conducted at a location other than the location at 16766

which the bingo session is conducted and at which the electronic 16767  
bingo aid is used. 16768

(vi) An electronic bingo aid cannot be used to provide for 16769  
the input of numbers and letters announced by a bingo caller other 16770  
than the bingo caller who physically calls the numbers and letters 16771  
at the location at which the bingo session is conducted and at 16772  
which the electronic bingo aid is used. 16773

(b) The attorney general may adopt rules in accordance with 16774  
Chapter 119. of the Revised Code that govern the use of electronic 16775  
bingo aids. The rules may include a requirement that an electronic 16776  
bingo aid be capable of being audited by the attorney general to 16777  
verify the number of bingo cards or sheets played during each 16778  
bingo session. 16779

(12) Permit any person the charitable organization knows, or 16780  
should have known, to be under eighteen years of age to play bingo 16781  
described in division (S)(1) of section 2915.01 of the Revised 16782  
Code. 16783

(D)(1) Except as otherwise provided in ~~this~~ division (D)(3) 16784  
of this section, no charitable organization shall provide to a 16785  
bingo game operator, and no bingo game operator shall receive or 16786  
accept, any commission, wage, salary, reward, tip, donation, 16787  
gratuity, or other form of compensation, directly or indirectly, 16788  
regardless of the source, for conducting bingo or providing other 16789  
work or labor at the site of bingo during a bingo session. ~~This~~ 16790

(2) Except as otherwise provided in division (D)(3) of this 16791  
section, no charitable organization shall provide to a bingo game 16792  
operator any commission, wage, salary, reward, tip, donation, 16793  
gratuity, or other form of compensation, directly or indirectly, 16794  
regardless of the source, for conducting instant bingo other than 16795  
at a bingo session at the site of instant bingo other than at a 16796  
bingo session. 16797

(3) Nothing in division does not prohibit (D) of this section 16798  
prohibits an employee of a fraternal organization or veteran's 16799  
organization from selling instant bingo tickets or cards to the 16800  
organization's members or invited guests, as long as no portion of 16801  
the employee's compensation is paid from any receipts of bingo. 16802

(E) Notwithstanding division (B)(1) of this section, a 16803  
charitable organization that, prior to December 6, 1977, has 16804  
entered into written agreements for the lease of premises it owns 16805  
to another charitable organization or other charitable 16806  
organizations for the conducting of bingo sessions so that more 16807  
than two bingo sessions are conducted per calendar week on the 16808  
premises, and a person that is not a charitable organization and 16809  
that, prior to December 6, 1977, has entered into written 16810  
agreements for the lease of premises it owns to charitable 16811  
organizations for the conducting of more than two bingo sessions 16812  
per calendar week on the premises, may continue to lease the 16813  
premises to those charitable organizations, provided that no more 16814  
than four sessions are conducted per calendar week, that the 16815  
lessor organization or person has notified the attorney general in 16816  
writing of the organizations that will conduct the sessions and 16817  
the days of the week and the times of the day on which the 16818  
sessions will be conducted, that the initial lease entered into 16819  
with each organization that will conduct the sessions was filed 16820  
with the attorney general prior to December 6, 1977, and that each 16821  
organization that will conduct the sessions was issued a license 16822  
to conduct bingo games by the attorney general prior to December 16823  
6, 1977. 16824

(F) Whoever violates division (A)(2) of this section is 16825  
guilty of illegally conducting a bingo game, a felony of the 16826  
fourth degree. Except as otherwise provided in this division, 16827  
whoever violates division (A)(1) or (3), (B)(1), (2), or (3), 16828  
(C)(1) to (12), or (D) of this section is guilty of a minor 16829

misdemeanor. If the offender previously has been convicted of a 16830  
violation of division (A)(1) or (3), (B)(1), (2), or (3), (C)(1) 16831  
to (11), or, (D) of this section, a violation of division (A)(1) 16832  
or (3), (B)(1), (2), or (3), (C), or (D) of this section is a 16833  
misdemeanor of the first degree. Whoever violates division (C)(12) 16834  
of this section is guilty of a misdemeanor of the first degree, if 16835  
the offender previously has been convicted of a violation of 16836  
division (C)(12) of this section, a felony of the fourth degree. 16837

**Sec. 2915.091.** (A) No charitable organization that conducts 16838  
instant bingo shall do any of the following: 16839

(1) Fail to comply with the requirements of divisions (A)(1), 16840  
(2), and (3) of section 2915.09 of the Revised Code; 16841

(2) Conduct instant bingo unless either of the following 16842  
apply: 16843

(a) That organization is, and has received from the internal 16844  
revenue service a determination letter that is currently in effect 16845  
stating that the organization is, exempt from federal income 16846  
taxation under subsection 501(a), is described in subsection 16847  
501(c)(3) of the Internal Revenue Code, is a charitable 16848  
organization as defined in section 2915.01 of the Revised Code, is 16849  
in good standing in the state pursuant to section 2915.08 of the 16850  
Revised Code, and is in compliance with Chapter 1716. of the 16851  
Revised Code; 16852

(b) That organization is, and has received from the internal 16853  
revenue service a determination letter that is currently in effect 16854  
stating that the organization is, exempt from federal income 16855  
taxation under subsection 501(a), is described in subsection 16856  
501(c)(8), 501(c)(10), or 501(c)(19) or is a veteran's 16857  
organization described in subsection 501(c)(4) of the Internal 16858  
Revenue Code, and conducts instant bingo under section 2915.13 of 16859  
the Revised Code. 16860



- (3) Conduct instant bingo on any day, at any time, or at any premises not specified on the organization's license issued pursuant to section 2915.08 of the Revised Code; 16861  
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- (4) Permit any person whom the organization knows or should have known has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of instant bingo; 16864  
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- (5) Purchase or lease supplies used to conduct instant bingo or punch board games from any person except a distributor licensed under section 2915.081 of the Revised Code; 16868  
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- (6) Sell or provide any instant bingo ticket or card for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare; 16871  
16872  
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- (7) Sell an instant bingo ticket or card to a person under eighteen years of age; 16874  
16875
- (8) Fail to keep unsold instant bingo tickets or cards for less than three years; 16876  
16877
- (9) Pay any compensation to a bingo game operator for conducting instant bingo that is conducted by the organization or for preparing, selling, or serving food or beverages at the site of the instant bingo game, permit any auxiliary unit or society of the organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at an instant bingo game conducted by the organization, or permit any auxiliary unit or society of the organization to prepare, sell, or serve food or beverages at an instant bingo game conducted by the organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages; 16878  
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- (10) Pay fees to any person for any services performed in 16890

relation to an instant bingo game; 16891

(11) Pay fees to any person who provides refreshments to the 16892  
participants in an instant bingo game; 16893

(12) Allow instant bingo tickets or cards to be sold to bingo 16894  
game operators ~~who are performing work or labor~~ at a premises at 16895  
which the organization sells instant bingo tickets or cards or to 16896  
be sold to employees of a D permit holder who are working at a 16897  
premises at which instant bingo tickets or cards are sold ~~on~~ 16898  
~~behalf of the organization as described in division (B) of section~~ 16899  
~~4301.03 of the Revised Code;~~ 16900

(13) Fail to display its bingo license, and the serial 16901  
numbers of the deal of instant bingo tickets or cards to be sold, 16902  
conspicuously at each premises at which it sells instant bingo 16903  
tickets or cards; 16904

(14) Possess a deal of instant bingo tickets or cards that 16905  
was not purchased from a distributor licensed under section 16906  
2915.081 of the Revised Code as reflected on an invoice issued by 16907  
the distributor that contains all of the information required by 16908  
division (E) of section 2915.10 of the Revised Code; 16909

(15) Fail, once it opens a deal of instant bingo tickets or 16910  
cards, to continue to sell the tickets or cards in that deal until 16911  
the tickets or cards with the top two highest tiers of prizes in 16912  
that deal are sold; 16913

(16) Purchase, lease, or use instant bingo ticket dispensers 16914  
to sell instant bingo tickets or cards; 16915

(17) Possess bingo supplies that were not obtained in 16916  
accordance with sections 2915.01 to 2915.13 of the Revised Code. 16917

(B) A charitable organization may conduct instant bingo other 16918  
than at a bingo session at not more than five separate locations. 16919  
A charitable organization that is exempt from federal taxation 16920

under subsection 501(a) and described in subsection 501(c)(3) of 16921  
the Internal Revenue Code and that is created by a veteran's 16922  
organization or a fraternal organization is not limited in the 16923  
number of separate locations the charitable organization may 16924  
conduct instant bingo other than at a bingo session. 16925

(C) The attorney general may adopt rules in accordance with 16926  
Chapter 119. of the Revised Code that govern the conduct of 16927  
instant bingo by charitable organizations. Before those rules are 16928  
adopted, the attorney general shall reference the recommended 16929  
standards for opacity, randomization, minimum information, winner 16930  
protection, color, and cutting for instant bingo tickets or cards, 16931  
seal cards, and punch boards established by the North American 16932  
gaming regulators association. 16933

(D) Whoever violates division (A) of this section or a rule 16934  
adopted under division (B) of this section is guilty of illegal 16935  
instant bingo conduct. Except as otherwise provided in this 16936  
division, illegal instant bingo conduct is a misdemeanor of the 16937  
first degree. If the offender previously has been convicted of a 16938  
violation of division (A) of this section or of such a rule, 16939  
illegal instant bingo conduct is a felony of the fifth degree. 16940

**Sec. 2915.092.** (A) A charitable organization may conduct a 16941  
raffle to raise money for the charitable organization and does not 16942  
need a license to conduct bingo in order to conduct a raffle 16943  
drawing. 16944

(B)(1) No charitable organization shall conduct a raffle 16945  
unless ~~the~~ either of the following applies: 16946

(a) The organization is, and has received from the internal 16947  
revenue service a determination letter that is currently in effect 16948  
stating that the organization is, exempt from federal income 16949  
taxation under subsection 501(a) and is described in subsection 16950  
501(c)(3) or 501(c)(4) of the Internal Revenue Code. 16951

(b) The organization is a veteran's organization or a fraternal organization that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code.

(2) ~~No~~ Except as otherwise provided in division (E) of this section, no charitable organization shall conduct more than thirty-six raffles during a calendar year.

(3) No person shall be compensated directly or indirectly for assisting in the conduct or operation of a raffle.

(C) No raffle drawing shall be conducted on premises other than premises that a charitable organization uses for its charitable programs.

(D) No person shall fail to use, or give, donate, or otherwise transfer, the net profit from a raffle for a charitable purpose described in division (Z) of section 2915.01 of the Revised Code.

(E) A charitable organization that is licensed to conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session may conduct a raffle that is not for profit, provided that the organization does not receive any proceeds from the raffle and provided that the organization conducts the raffle at the same location and on the same days of the week and times as is provided in the organization's license to conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session.

(F) Whoever violates division (B), (C), ~~or~~ (D), or (E) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this division, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (B), (C), ~~or~~ (D), or (E) of this section, illegal conduct of a raffle is a felony of

the fifth degree. 16983

**Sec. 2915.093.** (A) As used in this section, "retail income 16984  
from all commercial activity" includes the sale of instant bingo 16985  
tickets. 16986

(B) A charitable instant bingo organization may conduct 16987  
instant bingo other than at a bingo session at not more than five 16988  
separate locations. 16989

(C)(1) If a charitable instant bingo organization conducts 16990  
instant bingo other than at a bingo session, the charitable 16991  
instant bingo organization shall enter into a written contract 16992  
with the owner or lessor of the location at which the instant 16993  
bingo is conducted to allow the owner or lessor to assist in the 16994  
conduct of instant bingo other than at a bingo session, identify 16995  
each location where the instant bingo other than at a bingo 16996  
session is being conducted, and identify the owner or lessor of 16997  
each location. 16998

(2) A charitable instant bingo organization that conducts 16999  
instant bingo other than at a bingo session is not required to 17000  
enter into a written contract with the owner or lessor of the 17001  
location at which the instant bingo is conducted provided that the 17002  
owner or lessor is not assisting in the conduct of the instant 17003  
bingo other than at a bingo session and provided that the conduct 17004  
of the instant bingo other than at a bingo session at that 17005  
location is not more than five days per calendar year and not more 17006  
than ten hours per day. 17007

(D) ~~No~~ Except as provided in division (G) of this section, no 17008  
charitable instant bingo organization shall conduct instant bingo 17009  
other than at a bingo session at a location where the primary 17010  
source of retail income from all commercial activity at that 17011  
location is the sale of instant bingo tickets. 17012

(E) The owner or lessor of a location that enters into a contract pursuant to division (C) of this section shall pay up front for the cost of the deal of instant bingo tickets and the gross profits that would be earned by the owner or lessor if all of the instant bingo tickets are sold. The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets up to the amount that it paid to the charitable instant bingo organization. If the owner or lessor of the location earns any more money than the owner or lessor paid out in prizes or paid up front, the owner or lessor of the location shall pay that money to the charitable instant bingo organization.

(F) A charitable instant bingo organization shall provide the attorney general with all of the following information:

(1) That the charitable instant bingo organization has terminated a contract entered into pursuant to division (C) of this section with an owner or lessor of a location;

(2) That the charitable instant bingo organization has entered into a written contract pursuant to division (C) of this section with a new owner or lessor of a location;

(3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of Chapter 2915. of the Revised Code.

(G) Division (D) of this section does not apply to a volunteer firefighter's organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, and that has conducted instant bingo at any time for at least five years prior

to the effective date of this amendment. 17044

**Sec. 2915.10.** (A) No charitable organization that conducts 17045  
bingo or a game of chance pursuant to division (D) of section 17046  
2915.02 of the Revised Code shall fail to maintain the following 17047  
records for at least three years from the date on which the bingo 17048  
or game of chance is conducted: 17049

(1) An itemized list of the gross receipts of each bingo 17050  
session, ~~each game of instant bingo by serial number~~, each raffle, 17051  
each punch board game, and each game of chance, and an itemized 17052  
list of the gross profits of each game of instant bingo by serial 17053  
number; 17054

(2) An itemized list of all expenses, other than prizes, that 17055  
are incurred in conducting bingo ~~or instant bingo~~ as described in 17056  
division (S)(1) of section 2915.01 of the Revised Code, the name 17057  
of each person to whom the expenses are paid, and a receipt for 17058  
all of the expenses; 17059

(3) A list of all prizes awarded during each bingo session, 17060  
each raffle, each punch board game, and each game of chance 17061  
conducted by the charitable organization, the total prizes awarded 17062  
from each game of instant bingo by serial number, and the name, 17063  
address, and social security number of all persons who are winners 17064  
of prizes of six hundred dollars or more in value; 17065

(4) An itemized list of the recipients of the net profit of 17066  
the bingo or game of chance, including the name and address of 17067  
each recipient to whom the money is distributed, and if the 17068  
organization uses the net profit of bingo, or the money or assets 17069  
received from a game of chance, for any charitable or other 17070  
purpose set forth in division (Z) of section 2915.01, division (D) 17071  
of section 2915.02, or section 2915.101 of the Revised Code, a 17072  
list of each purpose and an itemized list of each expenditure for 17073  
each purpose; 17074

(5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization; 17075  
17076  
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(6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from gross receipts under division (X) of section 2915.01 of the Revised Code; 17078  
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(7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game, or each game of instant bingo conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses. 17082  
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(B) A charitable organization shall keep the records that it is required to maintain pursuant to division (A) of this section at its principal place of business in this state or at its headquarters in this state and shall notify the attorney general of the location at which those records are kept. 17089  
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(C) The gross profit from each bingo session or game described in division (S)(1) or (2) of section 2915.01 of the Revised Code shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to recipients of some or all of the net profit of the bingo session or game shall be made only by checks drawn on the bingo session or game account. 17094  
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(D) Each charitable organization shall conduct and record an inventory of all of its bingo supplies as of the first day of November of each year. 17102  
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(E) The attorney general may adopt rules in accordance with 17105



Chapter 119. of the Revised Code that establish standards of 17106  
accounting, record keeping, and reporting to ensure that gross 17107  
receipts from bingo or games of chance are properly accounted for. 17108

(F) A distributor shall maintain, for a period of three years 17109  
after the date of its sale or other provision, a record of each 17110  
instance of its selling or otherwise providing to another person 17111  
bingo supplies for use in this state. The record shall include all 17112  
of the following for each instance: 17113

(1) The name of the manufacturer from which the distributor 17114  
purchased the bingo supplies and the date of the purchase; 17115

(2) The name and address of the charitable organization or 17116  
other distributor to which the bingo supplies were sold or 17117  
otherwise provided; 17118

(3) A description that clearly identifies the bingo supplies; 17119

(4) Invoices that include the nonrepeating serial numbers of 17120  
all paper bingo cards and sheets and all instant bingo deals sold 17121  
or otherwise provided to each charitable organization. 17122

(G) A manufacturer shall maintain, for a period of three 17123  
years after the date of its sale or other provision, a record of 17124  
each instance of its selling or otherwise providing bingo supplies 17125  
for use in this state. The record shall include all of the 17126  
following for each instance: 17127

(1) The name and address of the distributor to whom the bingo 17128  
supplies were sold or otherwise provided; 17129

(2) A description that clearly identifies the bingo supplies, 17130  
including serial numbers; 17131

(3) Invoices that include the nonrepeating serial numbers of 17132  
all paper bingo cards and sheets and all instant bingo deals sold 17133  
or otherwise provided to each distributor. 17134

(H) The attorney general or any law enforcement agency may do 17135

all of the following:	17136
(1) Investigate any charitable organization or any officer, agent, trustee, member, or employee of the organization;	17137 17138
(2) Examine the accounts and records of the organization;	17139
(3) Conduct inspections, audits, and observations of bingo or games of chance;	17140 17141
(4) Conduct inspections of the premises where bingo or games of chance are conducted;	17142 17143
(5) Take any other necessary and reasonable action to determine if a violation of any provision of sections 2915.01 to 2915.13 of the Revised Code has occurred and to determine whether section 2915.11 of the Revised Code has been complied with.	17144 17145 17146 17147
If any law enforcement agency has reasonable grounds to believe that a charitable organization or an officer, agent, trustee, member, or employee of the organization has violated any provision of this chapter, the law enforcement agency may proceed by action in the proper court to enforce this chapter, provided that the law enforcement agency shall give written notice to the attorney general when commencing an action as described in this division.	17148 17149 17150 17151 17152 17153 17154 17155
(I) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of bingo or a game of chance or premises where bingo or a game of chance is conducted, or refuse to comply with any reasonable request of, or obstruct, impede, or interfere with any other reasonable action undertaken by, the attorney general or a law enforcement agency pursuant to division (H) of this section.	17156 17157 17158 17159 17160 17161 17162 17163 17164
(J) Whoever violates division (A) or (I) of this section is	17165

guilty of a misdemeanor of the first degree. 17166

**Sec. 2915.101.** Except as otherwise provided by law, a 17167  
charitable organization that conducts instant bingo shall 17168  
distribute the net profit from the proceeds of the sale of instant 17169  
bingo as follows: 17170

(A)(1) If a veteran's organization or a fraternal 17171  
organization conducted the instant bingo, the organization shall 17172  
distribute the net profit, as follows: 17173

(a) A minimum of fifty per cent shall be distributed to an 17174  
organization described in division (Z)(1) of section 2915.01 of 17175  
the Revised Code or to a department or agency of the federal 17176  
government, the state, or any political subdivision; 17177

(b) Fifteen per cent may be distributed for the 17178  
organization's own charitable purposes. 17179

(c) Thirty-five per cent may be deducted and retained by the 17180  
organization for the organization's expenses in conducting the 17181  
instant bingo game. 17182

(2) If a veteran's organization or a fraternal organization 17183  
does not distribute the full percentages specified in divisions 17184  
(A)(1)(b) and (c) of this section for the purposes specified in 17185  
those divisions, the organization shall distribute the balance of 17186  
the net profit not distributed or retained for those purposes to 17187  
an organization described in division (Z)(1) of section 2915.01 of 17188  
the Revised Code. 17189

(3) A veteran's organization or a fraternal organization is 17190  
not required to itemize the organization's expenses. A veteran's 17191  
organization or a fraternal organization shall pay the expenses 17192  
that are directly for the conduct of instant bingo by check from 17193  
the checking account devoted exclusively to the bingo session or 17194  
game and may deduct and retain the remainder of the thirty-five 17195

per cent of the net profit that is for the organization's expenses 17196  
in conducting the instant bingo game and may transfer that 17197  
remainder into the organization's general account. 17198

(B)(1) If a charitable organization other than a veteran's 17199  
organization or a fraternal organization conducted the instant 17200  
bingo, the organization shall distribute one hundred per cent of 17201  
the net profit ~~as follows:~~ 17202

~~(a) A minimum of seventy per cent shall be distributed to an~~ 17203  
~~organization described in division (Z)(1) of section 2915.01 of~~ 17204  
~~the Revised Code or to a department or agency of the federal~~ 17205  
~~government, the state, or any political subdivision.~~ 17206

~~(b) Thirty per cent may be deducted and retained by the~~ 17207  
~~organization for the organization's expenses in conducting the~~ 17208  
~~instant bingo game.~~ 17209

~~(2) If a charitable organization does not retain the full~~ 17210  
~~percentage specified in division (B)(1)(b) of this section for the~~ 17211  
~~purposes specified in that division, the organization shall~~ 17212  
~~distribute the balance of the net profit not retained for that~~ 17213  
~~purpose to an organization described in division (Z)(1) of section~~ 17214  
~~2915.01 of the Revised Code.~~ 17215

~~(3) A charitable organization other than a veteran's~~ 17216  
~~organization or fraternal organization is not required to itemize~~ 17217  
~~the charitable organization's expenses.~~ 17218

**Sec. 2915.13.** (A) A veteran's organization or a fraternal 17219  
organization authorized to conduct a bingo session pursuant to 17220  
sections 2915.01 to 2915.12 of the Revised Code may conduct 17221  
instant bingo other than at a bingo session if all of the 17222  
following apply: 17223

(1) The veteran's organization or fraternal organization 17224  
limits the sale of instant bingo to ten consecutive hours per day 17225

for up to six days per week. 17226

(2) The veteran's organization or fraternal organization 17227  
limits the sale of instant bingo to its own premises and to its 17228  
own members and invited guests. 17229

(3) The veteran's organization or fraternal organization is 17230  
raising money for ~~a charitable~~ an organization that is described 17231  
in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal 17232  
Revenue Code and is either a governmental unit or a state 17233  
organization that is exempt from federal income taxation under 17234  
subsection 501(a) and described in subsection 501(c)(3) of the 17235  
Internal Revenue Code that is in good standing in this state and 17236  
executes a written contract with ~~the charitable~~ that organization 17237  
as required in division (B) of this section. 17238

(B) If a veteran's organization or fraternal organization 17239  
authorized to conduct instant bingo pursuant to division (A) of 17240  
this section is raising money for another ~~charitable~~ organization 17241  
that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) 17242  
of the Internal Revenue Code and is either a governmental unit or 17243  
a state organization that is exempt from federal income taxation 17244  
under subsection 501(a) and described in subsection 501(c)(3) of 17245  
the Internal Revenue Code that is in good standing in this state, 17246  
the veteran's organization or fraternal organization shall execute 17247  
a written contract with ~~a charitable~~ the organization that is 17248  
described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the 17249  
Internal Revenue Code and is either a governmental unit or a state 17250  
organization that is exempt from federal income taxation under 17251  
subsection 501(a) and described in subsection 501(c)(3) of the 17252  
Internal Revenue Code that is in good standing in this state in 17253  
order to conduct instant bingo. That contract shall include a 17254  
statement of the percentage of the net proceeds that the veteran's 17255  
or fraternal organization will be distributing to the ~~charitable~~ 17256  
organization that is described in subsection 509(a)(1), 509(a)(2), 17257

or 509(a)(3) of the Internal Revenue Code and is either a 17258  
governmental unit or a state organization that is exempt from 17259  
federal income taxation under subsection 501(a) and described in 17260  
subsection 501(c)(3) of the Internal Revenue Code that is in good 17261  
standing in this state. 17262

(C)(1) If a veteran's organization or fraternal organization 17263  
authorized to conduct instant bingo pursuant to division (A) of 17264  
this section has been issued a liquor permit under Chapter 4303. 17265  
of the Revised Code, that permit may be subject to suspension, 17266  
revocation, or cancellation if the veteran's organization or 17267  
fraternal organization violates a provision of sections 2915.01 to 17268  
2915.13 of the Revised Code. 17269

(2) No veteran's organization or fraternal organization that 17270  
enters into a written contract pursuant to division (B) of this 17271  
section shall violate any provision of Chapter 2915. of the 17272  
Revised Code, or permit, aid, or abet any other person in 17273  
violating any provision of Chapter 2915. of the Revised Code. 17274

(D) A veteran's organization or fraternal organization shall 17275  
give all required proceeds earned from the conduct of instant 17276  
bingo to the ~~charitable~~ organization with which the veteran's 17277  
organization or fraternal organization has entered into a written 17278  
contract. 17279

(E) Whoever violates this section is guilty of illegal 17280  
instant bingo conduct. Except as otherwise provided in this 17281  
division, illegal instant bingo conduct is a misdemeanor of the 17282  
first degree. If the offender previously has been convicted of a 17283  
violation of this section, illegal instant bingo conduct is a 17284  
felony of the fifth degree. 17285

**Sec. 2917.41.** (A) No person shall evade the payment of the 17286  
known fares of a public transportation system. 17287

(B) No person shall alter any transfer, pass, ticket, or token of a public transportation system with the purpose of evading the payment of fares or of defrauding the system.	17288 17289 17290
(C) No person shall do any of the following while in any facility or on any vehicle of a public transportation system:	17291 17292
(1) Play sound equipment without the proper use of a private earphone;	17293 17294
(2) Smoke, eat, or drink in any area where the activity is clearly marked as being prohibited;	17295 17296
(3) Expectorate upon a person, facility, or vehicle.	17297
(D) No person shall write, deface, draw, or otherwise mark on any facility or vehicle of a public transportation system.	17298 17299
(E) No person shall fail to comply with a lawful order of a public transportation system police officer, and no person shall resist, obstruct, or abuse a public transportation police officer in the performance of the officer's duties.	17300 17301 17302 17303
(F) Whoever violates this section is guilty of misconduct involving a public transportation system.	17304 17305
(1) Violation of division (A), (B), or (E) of this section is a misdemeanor of the fourth degree.	17306 17307
<del>(2) Violation of division (B) of this section is a misdemeanor of the fourth degree.</del>	17308 17309
<del>(3) Violation of division (C) or (E) of this section is a</del> <u>minor misdemeanor on a first offense. If a person previously has been convicted of or pleaded guilty to a violation of any division of this section or of a municipal ordinance that is substantially similar to any division of this section, violation of division (C) of this section is a misdemeanor</u> of the fourth degree.	17310 17311 17312 17313 17314 17315
<del>(4)</del> (3) Violation of division (D) of this section is a	17316

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misdemeanor of the third degree.

(G) Notwithstanding any other provision of law, seventy-five per cent of each fine paid to satisfy a sentence imposed for a violation of this section shall be deposited into the treasury of the county in which the violation occurred and twenty-five per cent shall be deposited with the county transit board, regional transit authority, or regional transit commission that operates the public transportation system involved in the violation, unless the board of county commissioners operates the public transportation system, in which case one hundred per cent of each fine shall be deposited into the treasury of the county.

(H) As used in this section, "public transportation system" means a county transit system operated in accordance with sections 306.01 to 306.13 of the Revised Code, a regional transit authority operated in accordance with sections 306.30 to 306.71 of the Revised Code, or a regional transit commission operated in accordance with sections 306.80 to 306.90 of the Revised Code.

**Sec. 2921.13.** (A) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:

(1) The statement is made in any official proceeding.

(2) The statement is made with purpose to incriminate another.

(3) The statement is made with purpose to mislead a public official in performing the public official's official function.

(4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention, and contingency benefits and services; disability financial assistance; retirement benefits; economic development assistance, as defined in section 9.66 of the Revised Code; or



other benefits administered by a governmental agency or paid out 17347  
of a public treasury. 17348

(5) The statement is made with purpose to secure the issuance 17349  
by a governmental agency of a license, permit, authorization, 17350  
certificate, registration, release, or provider agreement. 17351

(6) The statement is sworn or affirmed before a notary public 17352  
or another person empowered to administer oaths. 17353

(7) The statement is in writing on or in connection with a 17354  
report or return that is required or authorized by law. 17355

(8) The statement is in writing and is made with purpose to 17356  
induce another to extend credit to or employ the offender, to 17357  
confer any degree, diploma, certificate of attainment, award of 17358  
excellence, or honor on the offender, or to extend to or bestow 17359  
upon the offender any other valuable benefit or distinction, when 17360  
the person to whom the statement is directed relies upon it to 17361  
that person's detriment. 17362

(9) The statement is made with purpose to commit or 17363  
facilitate the commission of a theft offense. 17364

(10) The statement is knowingly made to a probate court in 17365  
connection with any action, proceeding, or other matter within its 17366  
jurisdiction, either orally or in a written document, including, 17367  
but not limited to, an application, petition, complaint, or other 17368  
pleading, or an inventory, account, or report. 17369

(11) The statement is made on an account, form, record, 17370  
stamp, label, or other writing that is required by law. 17371

(12) The statement is made in connection with the purchase of 17372  
a firearm, as defined in section 2923.11 of the Revised Code, and 17373  
in conjunction with the furnishing to the seller of the firearm of 17374  
a fictitious or altered driver's or commercial driver's license or 17375  
permit, a fictitious or altered identification card, or any other 17376

document that contains false information about the purchaser's 17377  
identity. 17378

(13) The statement is made in a document or instrument of 17379  
writing that purports to be a judgment, lien, or claim of 17380  
indebtedness and is filed or recorded with the secretary of state, 17381  
a county recorder, or the clerk of a court of record. 17382

(B) No person, in connection with the purchase of a firearm, 17383  
as defined in section 2923.11 of the Revised Code, shall knowingly 17384  
furnish to the seller of the firearm a fictitious or altered 17385  
driver's or commercial driver's license or permit, a fictitious or 17386  
altered identification card, or any other document that contains 17387  
false information about the purchaser's identity. 17388

(C) It is no defense to a charge under division (A)(4) of 17389  
this section that the oath or affirmation was administered or 17390  
taken in an irregular manner. 17391

(D) If contradictory statements relating to the same fact are 17392  
made by the offender within the period of the statute of 17393  
limitations for falsification, it is not necessary for the 17394  
prosecution to prove which statement was false but only that one 17395  
or the other was false. 17396

(E)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 17397  
(6), (7), (8), (10), (11), or (13) of this section is guilty of 17398  
falsification, a misdemeanor of the first degree. 17399

(2) Whoever violates division (A)(9) of this section is 17400  
guilty of falsification in a theft offense. Except as otherwise 17401  
provided in this division, falsification in a theft offense is a 17402  
misdemeanor of the first degree. If the value of the property or 17403  
services stolen is five hundred dollars or more and is less than 17404  
five thousand dollars, falsification in a theft offense is a 17405  
felony of the fifth degree. If the value of the property or 17406  
services stolen is five thousand dollars or more and is less than 17407

one hundred thousand dollars, falsification in a theft offense is 17408  
a felony of the fourth degree. If the value of the property or 17409  
services stolen is one hundred thousand dollars or more, 17410  
falsification in a theft offense is a felony of the third degree. 17411

(3) Whoever violates division (A)(12) or (B) of this section 17412  
is guilty of falsification to purchase a firearm, a felony of the 17413  
fifth degree. 17414

(F) A person who violates this section is liable in a civil 17415  
action to any person harmed by the violation for injury, death, or 17416  
loss to person or property incurred as a result of the commission 17417  
of the offense and for reasonable attorney's fees, court costs, 17418  
and other expenses incurred as a result of prosecuting the civil 17419  
action commenced under this division. A civil action under this 17420  
division is not the exclusive remedy of a person who incurs 17421  
injury, death, or loss to person or property as a result of a 17422  
violation of this section. 17423

**Sec. 2923.35.** (A)(1) With respect to property ordered 17424  
forfeited under section 2923.32 of the Revised Code, with respect 17425  
to any fine or civil penalty imposed in any criminal or civil 17426  
proceeding under section 2923.32 or 2923.34 of the Revised Code, 17427  
and with respect to any fine imposed for a violation of section 17428  
2923.01 of the Revised Code for conspiracy to violate section 17429  
2923.32 of the Revised Code, the court, upon petition of the 17430  
prosecuting attorney, may do any of the following: 17431

(a) Authorize the prosecuting attorney to settle claims; 17432

(b) Award compensation to persons who provide information 17433  
that results in a forfeiture, fine, or civil penalty under section 17434  
2923.32 or 2923.34 of the Revised Code; 17435

(c) Grant petitions for mitigation or remission of 17436  
forfeiture, fines, or civil penalties, or restore forfeited 17437

property, imposed fines, or imposed civil penalties to persons 17438  
injured by the violation; 17439

(d) Take any other action to protect the rights of innocent 17440  
persons that is in the interest of justice and that is consistent 17441  
with the purposes of sections 2923.31 to 2923.36 of the Revised 17442  
Code. 17443

(2) The court shall maintain an accurate record of the 17444  
actions it takes under division (A)(1) of this section with 17445  
respect to the property ordered forfeited or the fine or civil 17446  
penalty. The record is a public record open for inspection under 17447  
section 149.43 of the Revised Code. 17448

(B)(1) After the application of division (A) of this section, 17449  
any person who prevails in a civil action pursuant to section 17450  
2923.34 of the Revised Code has a right to any property, or the 17451  
proceeds of any property, criminally forfeited to the state 17452  
pursuant to section 2923.32 of the Revised Code or against which 17453  
any fine under that section or civil penalty under division (I) of 17454  
section 2923.34 of the Revised Code may be imposed. 17455

The right of any person who prevails in a civil action 17456  
pursuant to section 2923.34 of the Revised Code, other than a 17457  
prosecuting attorney performing official duties under that 17458  
section, to forfeited property, property against which fines and 17459  
civil penalties may be imposed, and the proceeds of that property 17460  
is superior to any right of the state, a municipal corporation, or 17461  
a county to the property or the proceeds of the property, if the 17462  
civil action is brought within one hundred eighty days after the 17463  
entry of a sentence of forfeiture or a fine pursuant to section 17464  
2923.32 of the Revised Code or the entry of a civil penalty 17465  
pursuant to division (I) of section 2923.34 of the Revised Code. 17466

The right is limited to the total value of the treble 17467  
damages, civil penalties, attorney's fees, and costs awarded to 17468

the prevailing party in an action pursuant to section 2923.34 of 17469  
the Revised Code, less any restitution received by the person. 17470

(2) If the aggregate amount of claims of persons who have 17471  
prevailed in a civil action pursuant to section 2923.34 of the 17472  
Revised Code against any one defendant is greater than the total 17473  
value of the treble fines, civil penalties, and forfeited property 17474  
paid by the person against whom the actions were brought, all of 17475  
the persons who brought their actions within one hundred eighty 17476  
days after the entry of a sentence or disposition of forfeiture or 17477  
a fine pursuant to section 2923.32 of the Revised Code or the 17478  
entry of a civil penalty pursuant to division (I) of section 17479  
2923.34 of the Revised Code, first shall receive a pro rata share 17480  
of the total amount of the fines, civil penalties, and forfeited 17481  
property. After the persons who brought their actions within the 17482  
specified one-hundred-eighty-day period have satisfied their 17483  
claims out of the fines, civil penalties, and forfeited property, 17484  
all other persons who prevailed in civil actions pursuant to 17485  
section 2923.34 of the Revised Code shall receive a pro rata share 17486  
of the total amount of the fines, civil penalties, and forfeited 17487  
property that remains in the custody of the law enforcement agency 17488  
or in the corrupt activity investigation and prosecution fund. 17489

(C)(1) Subject to divisions (A) and (B) of this section and 17490  
notwithstanding any contrary provision of section 2933.41 of the 17491  
Revised Code, the prosecuting attorney shall order the disposal of 17492  
property ordered forfeited in any proceeding under sections 17493  
2923.32 and 2923.34 of the Revised Code as soon as feasible, 17494  
making due provisions for the rights of innocent persons, by any 17495  
of the following methods: 17496

(a) Transfer to any person who prevails in a civil action 17497  
pursuant to section 2923.34 of the Revised Code, subject to the 17498  
limit set forth in division (B)(1) of this section; 17499

(b) Public sale; 17500

(c) Transfer to a state governmental agency for official use; 17501

(d) Sale or transfer to an innocent person; 17502

(e) If the property is contraband and is not needed for 17503  
evidence in any pending criminal or civil proceeding, pursuant to 17504  
section 2933.41 or any other applicable section of the Revised 17505  
Code. 17506

(2) Any interest in personal or real property not disposed of 17507  
pursuant to this division and not exercisable by, or transferable 17508  
for value to, the state shall expire and shall not revert to the 17509  
person found guilty of or adjudicated a delinquent child for a 17510  
violation of section 2923.32 of the Revised Code. No person found 17511  
guilty of or adjudicated a delinquent child for a violation of 17512  
that section and no person acting in concert with a person found 17513  
guilty of or adjudicated a delinquent child for a violation of 17514  
that section is eligible to purchase forfeited property from the 17515  
state. 17516

(3) Upon application of a person, other than the defendant, 17517  
the adjudicated delinquent child, or a person acting in concert 17518  
with or on behalf of either the defendant or the adjudicated 17519  
delinquent child, the court may restrain or stay the disposal of 17520  
the property pursuant to this division pending the conclusion of 17521  
any appeal of the criminal case or delinquency case giving rise to 17522  
the forfeiture or pending the determination of the validity of a 17523  
claim to or interest in the property pursuant to division (E) of 17524  
section 2923.32 of the Revised Code, if the applicant demonstrates 17525  
that proceeding with the disposal of the property will result in 17526  
irreparable injury, harm, or loss to the applicant. 17527

(4) The prosecuting attorney shall maintain an accurate 17528  
record of each item of property disposed of pursuant to this 17529  
division, which record shall include the date on which each item 17530  
came into the prosecuting attorney's custody, the manner and date 17531

of disposition, and, if applicable, the name of the person who 17532  
received the item. The record shall not identify or enable the 17533  
identification of the individual officer who seized the property, 17534  
and the record is a public record open for inspection under 17535  
section 149.43 of the Revised Code. 17536

Each prosecuting attorney who disposes in any calendar year 17537  
of any item of property pursuant to this division shall prepare a 17538  
report covering the calendar year that cumulates all of the 17539  
information contained in all of the records kept by the 17540  
prosecuting attorney pursuant to this division for that calendar 17541  
year and shall send the cumulative report, no later than the first 17542  
day of March in the calendar year following the calendar year 17543  
covered by the report, to the attorney general. Each report 17544  
received by the attorney general is a public record open for 17545  
inspection under section 149.43 of the Revised Code. Not later 17546  
than the fifteenth day of April in the calendar year following the 17547  
calendar year covered by the reports, the attorney general shall 17548  
send to the president of the senate and the speaker of the house 17549  
of representatives a written notification that does all of the 17550  
following: 17551

(a) Indicates that the attorney general has received from 17552  
prosecuting attorneys reports of the type described in this 17553  
division that cover the previous calendar year and indicates that 17554  
the reports were received under this division; 17555

(b) Indicates that the reports are open for inspection under 17556  
section 149.43 of the Revised Code; 17557

(c) Indicates that the attorney general will provide a copy 17558  
of any or all of the reports to the president of the senate or the 17559  
speaker of the house of representatives upon request. 17560

(D)(1)(a) Ten per cent of the proceeds of all property 17561  
ordered forfeited by a juvenile court pursuant to section 2923.32 17562

of the Revised Code shall be applied to one or more alcohol and 17563  
drug addiction treatment programs that are certified by the 17564  
department of alcohol and drug addiction services under section 17565  
3793.06 of the Revised Code and that are specified in the order of 17566  
forfeiture. A juvenile court shall not specify an alcohol or drug 17567  
addiction treatment program in the order of forfeiture unless the 17568  
program is a certified alcohol and drug addiction treatment 17569  
program and, except as provided in division (D)(1)(a) of this 17570  
section, unless the program is located in the county in which the 17571  
court that orders the forfeiture is located or in a contiguous 17572  
county. If no certified alcohol and drug addiction treatment 17573  
program is located in any of those counties, the juvenile court 17574  
may specify in the order a certified alcohol and drug addiction 17575  
treatment program located anywhere within this state. The 17576  
remaining ninety per cent of the proceeds shall be disposed of as 17577  
provided in divisions (D)(1)(b) and (D)(2) of this section. 17578

All of the proceeds of all property ordered forfeited by a 17579  
court other than a juvenile court pursuant to section 2923.32 of 17580  
the Revised Code shall be disposed of as provided in divisions 17581  
(D)(1)(b) and (D)(2) of this section. 17582

(b) The remaining proceeds of all property ordered forfeited 17583  
pursuant to section 2923.32 of the Revised Code, after compliance 17584  
with division (D)(1)(a) of this section when that division is 17585  
applicable, and all fines and civil penalties imposed pursuant to 17586  
sections 2923.32 and 2923.34 of the Revised Code shall be 17587  
deposited into the state treasury and credited to the corrupt 17588  
activity investigation and prosecution fund, which is hereby 17589  
created. 17590

(2) The proceeds, fines, and penalties credited to the 17591  
corrupt activity investigation and prosecution fund pursuant to 17592  
division (D)(1) of this section shall be disposed of in the 17593  
following order: 17594



(a) To a civil plaintiff in an action brought within the 17595  
one-hundred-eighty-day time period specified in division (B)(1) of 17596  
this section, subject to the limit set forth in that division; 17597

(b) To the payment of the fees and costs of the forfeiture 17598  
and sale, including expenses of seizure, maintenance, and custody 17599  
of the property pending its disposition, advertising, and court 17600  
costs; 17601

(c) Except as otherwise provided in division (D)(2)(c) of 17602  
this section, the remainder shall be paid to the law enforcement 17603  
trust fund of the prosecuting attorney that is established 17604  
pursuant to division (D)(1)(c) of section 2933.43 of the Revised 17605  
Code and to the law enforcement trust fund of the county sheriff 17606  
that is established pursuant to that division if the county 17607  
sheriff substantially conducted the investigation, to the law 17608  
enforcement trust fund of a municipal corporation that is 17609  
established pursuant to that division if its police department 17610  
substantially conducted the investigation, to the law enforcement 17611  
trust fund of a township that is established pursuant to that 17612  
division if the investigation was substantially conducted by a 17613  
township police department, township police district police force, 17614  
or office of a township constable, or to the law enforcement trust 17615  
fund of a park district created pursuant to section 511.18 or 17616  
1545.01 of the Revised Code that is established pursuant to that 17617  
division if the investigation was substantially conducted by its 17618  
park district police force or law enforcement department. The 17619  
prosecuting attorney may decline to accept any of the remaining 17620  
proceeds, fines, and penalties, and, if the prosecuting attorney 17621  
so declines, they shall be applied to the fund described in 17622  
division (D)(2)(c) of this section that relates to the appropriate 17623  
law enforcement agency that substantially conducted the 17624  
investigation. 17625

If the state highway patrol substantially conducted the 17626

investigation, the director of budget and management shall 17627  
transfer the remaining proceeds, fines, and penalties to the state 17628  
highway patrol for deposit into the state highway patrol 17629  
contraband, forfeiture, and other fund that is created by division 17630  
(D)(1)(c) of section 2933.43 of the Revised Code. If the 17631  
department of taxation substantially conducted the investigation, 17632  
the director shall transfer the remaining proceeds, fines, and 17633  
penalties to the department for deposit into the department of 17634  
taxation enforcement fund. If the state board of pharmacy 17635  
substantially conducted the investigation, the director shall 17636  
transfer the remaining proceeds, fines, and penalties to the board 17637  
for deposit into the board of pharmacy drug law enforcement fund 17638  
that is created by division (B)(1) of section 4729.65 of the 17639  
Revised Code. If a state law enforcement agency, other than the 17640  
state highway patrol, the department of taxation, or the state 17641  
board of pharmacy, substantially conducted the investigation, the 17642  
director shall transfer the remaining proceeds, fines, and 17643  
penalties to the treasurer of state for deposit into the peace 17644  
officer training commission fund that is created by division 17645  
(D)(1)(c) of section 2933.43 of the Revised Code. 17646

The remaining proceeds, fines, and penalties that are paid to 17647  
a law enforcement trust fund or that are deposited into the state 17648  
highway patrol contraband, forfeiture, and other fund, the 17649  
department of taxation enforcement fund, the board of pharmacy 17650  
drug law enforcement fund, or the peace officer training 17651  
commission fund pursuant to division (D)(2)(c) of this section 17652  
shall be allocated, used, and expended only in accordance with 17653  
division (D)(1)(c) of section 2933.43 of the Revised Code, only in 17654  
accordance with a written internal control policy adopted under 17655  
division (D)(3) of that section, and, if applicable, only in 17656  
accordance with division (B) of section 4729.65 of the Revised 17657  
Code. The annual reports that pertain to the funds and that are 17658  
required by divisions (D)(1)(c) and (3)(b) of section 2933.43 of 17659

the Revised Code also shall address the remaining proceeds, fines, 17660  
and penalties that are paid or deposited into the funds pursuant 17661  
to division (D)(2)(c) of this section. 17662

(3) If more than one law enforcement agency substantially 17663  
conducted the investigation, the court ordering the forfeiture 17664  
shall equitably divide the remaining proceeds, fines, and 17665  
penalties among the law enforcement agencies that substantially 17666  
conducted the investigation, in the manner described in division 17667  
(D)(2) of section 2933.43 of the Revised Code for the equitable 17668  
division of contraband proceeds and forfeited moneys. The 17669  
equitable shares of the proceeds, fines, and penalties so 17670  
determined by the court shall be paid or deposited into the 17671  
appropriate funds specified in division (D)(2)(c) of this section. 17672

(E) As used in this section, "law enforcement agency" 17673  
includes, but is not limited to, the state board of pharmacy and 17674  
the department of taxation. 17675

**Sec. 2925.44.** (A) If property is seized pursuant to section 17676  
2925.42 or 2925.43 of the Revised Code, it is deemed to be in the 17677  
custody of the head of the law enforcement agency that seized it, 17678  
and the head of that agency may do any of the following with 17679  
respect to that property prior to its disposition in accordance 17680  
with division (A)(4) or (B) of this section: 17681

(1) Place the property under seal; 17682

(2) Remove the property to a place that the head of that 17683  
agency designates; 17684

(3) Request the issuance of a court order that requires any 17685  
other appropriate municipal corporation, county, township, park 17686  
district created pursuant to section 511.18 or 1545.01 of the 17687  
Revised Code, or state law enforcement officer or other officer to 17688  
take custody of the property and, if practicable, remove it to an 17689

appropriate location for eventual disposition in accordance with 17690  
division (B) of this section; 17691

(4)(a) Seek forfeiture of the property pursuant to federal 17692  
law. If the head of that agency seeks its forfeiture pursuant to 17693  
federal law, the law enforcement agency shall deposit, use, and 17694  
account for proceeds from a sale of the property upon its 17695  
forfeiture, proceeds from another disposition of the property upon 17696  
its forfeiture, or forfeited moneys it receives, in accordance 17697  
with the applicable federal law and otherwise shall comply with 17698  
that law. 17699

(b) If the state highway patrol seized the property and if 17700  
the superintendent of the state highway patrol seeks its 17701  
forfeiture pursuant to federal law, the appropriate governmental 17702  
officials shall deposit into the state highway patrol contraband, 17703  
forfeiture, and other fund all interest or other earnings derived 17704  
from the investment of the proceeds from a sale of the property 17705  
upon its forfeiture, the proceeds from another disposition of the 17706  
property upon its forfeiture, or the forfeited moneys. The state 17707  
highway patrol shall use and account for that interest or other 17708  
earnings in accordance with the applicable federal law. 17709

(c) If the investigative unit of the department of public 17710  
safety seized the property and if the director of public safety 17711  
seeks its forfeiture pursuant to federal law, the appropriate 17712  
governmental officials shall deposit into the department of public 17713  
safety investigative unit contraband, forfeiture, and other fund 17714  
all interest or other earnings derived from the investment of the 17715  
proceeds from a sale of the property upon its forfeiture, the 17716  
proceeds from another disposition of the property upon its 17717  
forfeiture, or the forfeited moneys. The department shall use and 17718  
account for that interest or other earnings in accordance with the 17719  
applicable federal law. 17720

(d) If the enforcement division of the department of taxation 17721

seized the property and if the tax commissioner seeks its 17722  
forfeiture pursuant to federal law, the appropriate governmental 17723  
officials shall deposit into the department of taxation 17724  
enforcement fund all interest or other earnings derived from the 17725  
investment of the proceeds from a sale of the property upon its 17726  
forfeiture, the proceeds from another disposition of the property 17727  
upon its forfeiture, or the forfeited moneys. The department shall 17728  
use and account for that interest or other earnings in accordance 17729  
with the applicable federal law. 17730

(e) Division (B) of this section and divisions (D)(1) to (3) 17731  
of section 2933.43 of the Revised Code do not apply to proceeds or 17732  
forfeited moneys received pursuant to federal law or to the 17733  
interest or other earnings that are derived from the investment of 17734  
proceeds or forfeited moneys received pursuant to federal law and 17735  
that are described in division (A)(4)(b) or (d) of this section. 17736

(B) In addition to complying with any requirements imposed by 17737  
a court pursuant to section 2925.42 or 2925.43 of the Revised 17738  
Code, and the requirements imposed by those sections, in relation 17739  
to the disposition of property forfeited to the state under either 17740  
of those sections, the prosecuting attorney who is responsible for 17741  
its disposition shall dispose of the property as follows: 17742

(1) Any vehicle, as defined in section 4501.01 of the Revised 17743  
Code, that was used in a felony drug abuse offense or in an act 17744  
that, if committed by an adult, would be a felony drug abuse 17745  
offense shall be given to the law enforcement agency of the 17746  
municipal corporation or county in which the offense occurred if 17747  
that agency desires to have the vehicle, except that, if the 17748  
offense occurred in a township or in a park district created 17749  
pursuant to section 511.18 or 1545.01 of the Revised Code and a 17750  
law enforcement officer employed by the township or the park 17751  
district was involved in the seizure of the vehicle, the vehicle 17752  
may be given to the law enforcement agency of that township or 17753

park district if that agency desires to have the vehicle, and 17754  
except that, if the state highway patrol made the seizure of the 17755  
vehicle, the vehicle may be given to the state highway patrol if 17756  
it desires to have the vehicle. 17757

(2) Any drug paraphernalia that was used, possessed, sold, or 17758  
manufactured in a violation of section 2925.14 of the Revised Code 17759  
that would be a felony drug abuse offense or in a violation of 17760  
that section committed by a juvenile that, if committed by an 17761  
adult, would be a felony drug abuse offense, may be given to the 17762  
law enforcement agency of the municipal corporation or county in 17763  
which the offense occurred if that agency desires to have and can 17764  
use the drug paraphernalia, except that, if the offense occurred 17765  
in a township or in a park district created pursuant to section 17766  
511.18 or 1545.01 of the Revised Code and a law enforcement 17767  
officer employed by the township or the park district was involved 17768  
in the seizure of the drug paraphernalia, the drug paraphernalia 17769  
may be given to the law enforcement agency of that township or 17770  
park district if that agency desires to have and can use the drug 17771  
paraphernalia. If the drug paraphernalia is not so given, it shall 17772  
be disposed of by sale pursuant to division (B)(8) of this section 17773  
or disposed of in another manner that the court that issued the 17774  
order of forfeiture considers proper under the circumstances. 17775

(3) Drugs shall be disposed of pursuant to section 3719.11 of 17776  
the Revised Code or placed in the custody of the secretary of the 17777  
treasury of the United States for disposal or use for medical or 17778  
scientific purposes under applicable federal law. 17779

(4) Firearms and dangerous ordnance suitable for police work 17780  
may be given to a law enforcement agency for that purpose. 17781  
Firearms suitable for sporting use, or as museum pieces or 17782  
collectors' items, may be disposed of by sale pursuant to division 17783  
(B)(8) of this section. Other firearms and dangerous ordnance 17784  
shall be destroyed by a law enforcement agency or shall be sent to 17785

the bureau of criminal identification and investigation for 17786  
destruction by it. As used in this division, "firearms" and 17787  
"dangerous ordnance" have the same meanings as in section 2923.11 17788  
of the Revised Code. 17789

(5) Computers, computer networks, computer systems, and 17790  
computer software suitable for police work may be given to a law 17791  
enforcement agency for that purpose. Other computers, computer 17792  
networks, computer systems, and computer software shall be 17793  
disposed of by sale pursuant to division (B)(8) of this section or 17794  
disposed of in another manner that the court that issued the order 17795  
of forfeiture considers proper under the circumstances. As used in 17796  
this division, "computers," "computer networks," "computer 17797  
systems," and "computer software" have the same meanings as in 17798  
section 2913.01 of the Revised Code. 17799

(6) Obscene materials shall be destroyed. 17800

(7) Beer, intoxicating liquor, and alcohol shall be disposed 17801  
of in accordance with division (D)(4) of section 2933.41 of the 17802  
Revised Code. 17803

(8) In the case of property not described in divisions (B)(1) 17804  
to (7) of this section and of property described in those 17805  
divisions but not disposed of pursuant to them, the property shall 17806  
be sold in accordance with division (B)(8) of this section or, in 17807  
the case of forfeited moneys, disposed of in accordance with 17808  
division (B)(8) of this section. If the property is to be sold, 17809  
the prosecuting attorney shall cause a notice of the proposed sale 17810  
of the property to be given in accordance with law, and the 17811  
property shall be sold, without appraisal, at a public auction to 17812  
the highest bidder for cash. The proceeds of a sale and forfeited 17813  
moneys shall be applied in the following order: 17814

(a) First, to the payment of the costs incurred in connection 17815  
with the seizure of, storage of, maintenance of, and provision of 17816

security for the property, the forfeiture proceeding or civil 17817  
action, and, if any, the sale; 17818

(b) Second, the remaining proceeds or forfeited moneys after 17819  
compliance with division (B)(8)(a) of this section, to the payment 17820  
of the value of any legal right, title, or interest in the 17821  
property that is possessed by a person who, pursuant to division 17822  
(F) of section 2925.42 of the Revised Code or division (E) of 17823  
section 2925.43 of the Revised Code, established the validity of 17824  
and consequently preserved that legal right, title, or interest, 17825  
including, but not limited to, any mortgage, perfected or other 17826  
security interest, or other lien in the property. The value of 17827  
these rights, titles, or interests shall be paid according to 17828  
their record or other order of priority. 17829

(c) Third, the remaining proceeds or forfeited moneys after 17830  
compliance with divisions (B)(8)(a) and (b) of this section, as 17831  
follows: 17832

(i) If the forfeiture was ordered in a juvenile court, ten 17833  
per cent to one or more alcohol and drug addiction treatment 17834  
programs that are certified by the department of alcohol and drug 17835  
addiction services under section 3793.06 of the Revised Code and 17836  
that are specified in the order of forfeiture. A juvenile court 17837  
shall not specify an alcohol or drug addiction treatment program 17838  
in the order of forfeiture unless the program is a certified 17839  
alcohol and drug addiction treatment program and, except as 17840  
provided in division (B)(8)(c)(i) of this section, unless the 17841  
program is located in the county in which the court that orders 17842  
the forfeiture is located or in a contiguous county. If no 17843  
certified alcohol and drug addiction treatment program is located 17844  
in any of those counties, the juvenile court may specify in the 17845  
order a certified alcohol and drug addiction treatment program 17846  
located anywhere within this state. 17847

(ii) If the forfeiture was ordered in a juvenile court, 17848



ninety per cent, and if the forfeiture was ordered in a court 17849  
other than a juvenile court, one hundred per cent to appropriate 17850  
funds in accordance with divisions (D)(1)(c) and (2) of section 17851  
2933.43 of the Revised Code. The remaining proceeds or forfeited 17852  
moneys so deposited shall be used only for the purposes authorized 17853  
by those divisions and division (D)(3)(a)(ii) of that section. 17854

(C)(1) Sections 2925.41 to 2925.45 of the Revised Code do not 17855  
preclude a financial institution that possessed a valid mortgage, 17856  
security interest, or lien that is not satisfied prior to a sale 17857  
under division (B)(8) of this section or following a sale by 17858  
application of division (B)(8)(b) of this section, from commencing 17859  
a civil action in any appropriate court in this or another state 17860  
to obtain a deficiency judgment against the debtor if the 17861  
financial institution otherwise would have been entitled to do so 17862  
in this or another state. 17863

(2) Any law enforcement agency that obtains any vehicle 17864  
pursuant to division (B)(1) of this section shall take the vehicle 17865  
subject to the outstanding amount of any security interest or lien 17866  
that attaches to the vehicle. 17867

(3) Nothing in this section impairs a mortgage, security 17868  
interest, lien, or other interest of a financial institution in 17869  
property that was the subject of a forfeiture order under section 17870  
2925.42 or 2925.43 of the Revised Code and that was sold or 17871  
otherwise disposed of in a manner that does not conform to the 17872  
requirements of division (B) of this section, or any right of a 17873  
financial institution of that nature to commence a civil action in 17874  
any appropriate court in this or another state to obtain a 17875  
deficiency judgment against the debtor. 17876

(4) Following the sale under division (B)(8) of this section 17877  
of any property that is required to be titled or registered under 17878  
the law of this state, the prosecuting attorney responsible for 17879  
the disposition of the property shall cause the state to issue an 17880

appropriate certificate of title or registration to the purchaser 17881  
of the property. Additionally, if, in a disposition of property 17882  
pursuant to division (B) of this section, the state or a political 17883  
subdivision is given any property that is required to be titled or 17884  
registered under the law of this state, the prosecuting attorney 17885  
responsible for the disposition of the property shall cause the 17886  
state to issue an appropriate certificate of title or registration 17887  
to itself or to the political subdivision. 17888

(D) Property that has been forfeited to the state pursuant to 17889  
an order of criminal forfeiture under section 2925.42 of the 17890  
Revised Code or an order of civil forfeiture under section 2925.43 17891  
of the Revised Code shall not be available for use to pay any fine 17892  
imposed upon a person who is convicted of or pleads guilty to a 17893  
felony drug abuse offense or upon any juvenile who is found by a 17894  
juvenile court to be a delinquent child for an act that, if 17895  
committed by an adult, would be a felony drug abuse offense. 17896

(E) Sections 2925.41 to 2925.45 of the Revised Code do not 17897  
prohibit a law enforcement officer from seeking the forfeiture of 17898  
contraband associated with a felony drug abuse offense pursuant to 17899  
section 2933.43 of the Revised Code. 17900

**Sec. 2929.38.** (A) A board of commissioners of a county, in an 17901  
agreement with the sheriff, a legislative authority of a municipal 17902  
corporation, a corrections commission, a judicial corrections 17903  
board, or any other public or private entity that operates a local 17904  
detention facility described in division (A) of section 2929.37 of 17905  
the Revised Code, may establish a policy that requires any 17906  
prisoner who is confined in the facility as a result of pleading 17907  
guilty to or having been convicted of an offense to pay a one-time 17908  
reception fee for the costs of processing the prisoner into the 17909  
facility at the time of the prisoner's initial entry into the 17910  
facility under the confinement in question, to pay a reasonable 17911

fee for any medical or dental treatment or service requested by 17912  
and provided to that prisoner, and to pay the fee for a random 17913  
drug test assessed under division (E) of section 341.26, and 17914  
division (E) of section 753.33 of the Revised Code. The fee for 17915  
the medical treatment or service shall not exceed the actual cost 17916  
of the treatment or service provided. No prisoner confined in the 17917  
local detention facility shall be denied any necessary medical 17918  
care because of inability to pay the fees. 17919

(B) Upon assessment of a one-time reception fee as described 17920  
in division (A) of this section, the provision of the requested 17921  
medical treatment or service, or the assessment of a fee for a 17922  
random drug test, payment of the required fee may be automatically 17923  
deducted from the prisoner's inmate account in the business office 17924  
of the local detention facility in which the prisoner is confined. 17925  
If there is no money in the account, a deduction may be made at a 17926  
later date during the prisoner's confinement if the money becomes 17927  
available in the account. If, after release, the prisoner has an 17928  
unpaid balance of those fees, the sheriff, legislative authority 17929  
of the municipal corporation, corrections commission, judicial 17930  
corrections board, or other entity that operates the local 17931  
detention facility described in division (A) of section 2929.37 of 17932  
the Revised Code may bill the prisoner for the payment of the 17933  
unpaid fees. Fees received for medical or dental treatment or 17934  
services shall be paid to the commissary fund, if one exists for 17935  
the facility, or if no commissary fund exists, to the general fund 17936  
of the treasury of the political subdivision that incurred the 17937  
expenses, in the same proportion as those expenses were borne by 17938  
the political subdivision. Fees received for medical treatment or 17939  
services that are placed in the commissary fund under this 17940  
division shall be used for the same purposes as profits from the 17941  
commissary fund, except that they shall not be used to pay any 17942  
salary or benefits of any person who works in or is employed for 17943  
the sole purpose of providing service to the commissary. 17944

(C) Any fee paid by a person under this section shall be 17945  
deducted from any medical or dental costs that the person is 17946  
ordered to reimburse under section 2929.36 of the Revised Code or 17947  
to repay under a policy adopted under section 2929.37 of the 17948  
Revised Code. 17949

(D) As used in this section, "inmate account" has the same 17950  
meaning as in section 2969.21 of the Revised Code. 17951

**Sec. 2933.43.** (A)(1) Except as provided in this division or 17952  
in section 2913.34 or sections 2923.44 to 2923.47 or 2925.41 to 17953  
2925.45 of the Revised Code, a law enforcement officer shall seize 17954  
any contraband that has been, is being, or is intended to be used 17955  
in violation of division (A) of section 2933.42 of the Revised 17956  
Code. A law enforcement officer shall seize contraband that is a 17957  
watercraft, motor vehicle, or aircraft and that has been, is 17958  
being, or is intended to be used in violation of division (A) of 17959  
section 2933.42 of the Revised Code only if the watercraft, motor 17960  
vehicle, or aircraft is contraband because of its relationship to 17961  
an underlying criminal offense that is a felony. 17962

Additionally, a law enforcement officer shall seize any 17963  
watercraft, motor vehicle, aircraft, or other personal property 17964  
that is classified as contraband under division (B) of section 17965  
2933.42 of the Revised Code if the underlying offense involved in 17966  
the violation of division (A) of that section that resulted in the 17967  
watercraft, motor vehicle, aircraft, or personal property being 17968  
classified as contraband, is a felony. 17969

(2) If a law enforcement officer seizes property that is 17970  
titled or registered under law, including a motor vehicle, 17971  
pursuant to division (A)(1) of this section, the officer or the 17972  
officer's employing law enforcement agency shall notify the owner 17973  
of the seizure. The notification shall be given to the owner at 17974  
the owner's last known address within seventy-two hours after the 17975

seizure, and may be given orally by any means, including 17976  
telephone, or by certified mail, return receipt requested. 17977

If the officer or the officer's agency is unable to provide 17978  
the notice required by this division despite reasonable, good 17979  
faith efforts to do so, the exercise of the reasonable, good faith 17980  
efforts constitutes fulfillment of the notice requirement imposed 17981  
by this division. 17982

(B)(1) A motor vehicle seized pursuant to division (A)(1) of 17983  
this section and the contents of the vehicle may be retained for a 17984  
reasonable period of time, not to exceed seventy-two hours, for 17985  
the purpose of inspection, investigation, and the gathering of 17986  
evidence of any offense or illegal use. 17987

At any time prior to the expiration of the seventy-two-hour 17988  
period, the law enforcement agency that seized the motor vehicle 17989  
may petition the court of common pleas of the county that has 17990  
jurisdiction over the underlying criminal case or administrative 17991  
proceeding involved in the forfeiture for an extension of the 17992  
seventy-two-hour period if the motor vehicle or its contents are 17993  
needed as evidence or if additional time is needed for the 17994  
inspection, investigation, or gathering of evidence. Upon the 17995  
filing of such a petition, the court immediately shall schedule a 17996  
hearing to be held at a time as soon as possible after the filing, 17997  
but in no event at a time later than the end of the next business 17998  
day subsequent to the day on which the petition was filed, and 17999  
upon scheduling the hearing, immediately shall notify the owner of 18000  
the vehicle, at the address at which notification of the seizure 18001  
was provided under division (A) of this section, of the date, 18002  
time, and place of the hearing. If the court, at the hearing, 18003  
determines that the vehicle or its contents, or both, are needed 18004  
as evidence or that additional time is needed for the inspection, 18005  
investigation, or gathering of evidence, the court may grant the 18006  
petition and issue an order authorizing the retention of the 18007

vehicle or its contents, or both, for an extended period as 18008  
specified by the court in its order. An order extending a period 18009  
of retention issued under this division may be renewed. 18010

If no petition for the extension of the initial 18011  
seventy-two-hour period has been filed, prior to the expiration of 18012  
that period, under this division, if the vehicle was not in the 18013  
custody and control of the owner at the time of its seizure, and 18014  
if, at the end of that seventy-two-hour period, the owner of the 18015  
vehicle has not been charged with an offense or administrative 18016  
violation that includes the use of the vehicle as an element and 18017  
has not been charged with any other offense or administrative 18018  
violation in the actual commission of which the motor vehicle was 18019  
used, the vehicle and its contents shall be released to its owner 18020  
or the owner's agent, provided that the law enforcement agency 18021  
that seized the vehicle may require proof of ownership of the 18022  
vehicle, proof of ownership or legal possession of the contents, 18023  
and an affidavit of the owner that the owner neither knew of nor 18024  
expressly or impliedly consented to the use of the vehicle that 18025  
resulted in its forfeiture as conditions precedent to release. If 18026  
a petition for the extension of the initial seventy-two-hour 18027  
period has been filed, prior to the expiration of that period, 18028  
under this division but the court does not grant the petition, if 18029  
the vehicle was not in the custody and control of the owner at the 18030  
time of its seizure, and if, at the end of that seventy-two-hour 18031  
period, the owner of the vehicle has not been charged with an 18032  
offense or administrative violation that includes the use of the 18033  
vehicle as an element and has not been charged with any other 18034  
offense or administrative violation in the actual commission of 18035  
which the motor vehicle was used, the vehicle and its contents 18036  
shall be released to its owner or the owner's agent, provided that 18037  
the court may require the proof and affidavit described in the 18038  
preceding sentence as conditions precedent to release. If the 18039  
initial seventy-two-hour period has been extended under this 18040

division, the vehicle and its contents to which the extension 18041  
applies may be retained in accordance with the extension order. 18042  
If, at the end of that extended period, the owner of the vehicle 18043  
has not been charged with an offense or administrative violation 18044  
that includes the use of the vehicle as an element and has not 18045  
been charged with any other offense or administrative violation in 18046  
the actual commission of which the motor vehicle was used, and if 18047  
the vehicle was not in the custody and control of the owner at the 18048  
time of its seizure, the vehicle and its contents shall be 18049  
released to its owner or the owner's agent, provided that the 18050  
court may require the proof and affidavit described in the third 18051  
preceding sentence as conditions precedent to release. In cases in 18052  
which the court may require proof and affidavits as conditions 18053  
precedent to release, the court also may require the posting of a 18054  
bond, with sufficient sureties approved by the court, in an amount 18055  
equal to the value of the property to be released, as determined 18056  
by the court, and conditioned upon the return of the property to 18057  
the court if it is forfeited under this section, as a further 18058  
condition to release. If, at the end of the initial 18059  
seventy-two-hour period or at the end of any extended period 18060  
granted under this section, the owner has been charged with an 18061  
offense or administrative violation that includes the use of the 18062  
vehicle as an element or has been charged with another offense or 18063  
administrative violation in the actual commission of which the 18064  
motor vehicle was used, or if the vehicle was in the custody and 18065  
control of the owner at the time of its seizure, the vehicle and 18066  
its contents shall be retained pending disposition of the charge, 18067  
provided that upon the filing of a motion for release by the 18068  
owner, if the court determines that the motor vehicle or its 18069  
contents, or both, are not needed as evidence in the underlying 18070  
criminal case or administrative proceeding, the court may permit 18071  
the release of the property that is not needed as evidence to the 18072  
owner; as a condition precedent to a release of that nature, the 18073

court may require the owner to execute a bond with the court. Any 18074  
bond so required shall be in an amount equal to the value of the 18075  
property to be released, as determined by the court, shall have 18076  
sufficient sureties approved by the court, and shall be 18077  
conditioned upon the return of the property to the court to which 18078  
it is forfeited under this section. 18079

The final disposition of a motor vehicle seized pursuant to 18080  
division (A)(1) of this section shall be determined in accordance 18081  
with division (C) of this section. 18082

(2) Pending a hearing pursuant to division (C) of this 18083  
section, and subject to divisions (B)(1) and (C) of this section, 18084  
any property lawfully seized pursuant to division (A) of this 18085  
section because it was contraband of a type described in division 18086  
(A)(13)(b), (d), (e), (f), (g), (h), (i), or (j) of section 18087  
2901.01 of the Revised Code shall not be subject to replevin or 18088  
other action in any court and shall not be subject to release upon 18089  
request of the owner, and no judgment shall be enforced against 18090  
the property. Pending the hearing, and subject to divisions (B)(1) 18091  
and (C) of this section, the property shall be kept in the custody 18092  
of the law enforcement agency responsible for its seizure. 18093

Pending a hearing pursuant to division (C) of this section, 18094  
and notwithstanding any provisions of division (B)(1) or (C) of 18095  
this section to the contrary, any property lawfully seized 18096  
pursuant to division (A) of this section because it was contraband 18097  
of a type described in division (A)(13)(a) or (c) of section 18098  
2901.01 of the Revised Code shall not be subject to replevin or 18099  
other action in any court and shall not be subject to release upon 18100  
request of the owner, and no judgment shall be enforced against 18101  
the property. Pending the hearing, and notwithstanding any 18102  
provisions of division (B)(1) or (C) of this section to the 18103  
contrary, the property shall be kept in the custody of the law 18104  
enforcement agency responsible for its seizure. 18105



A law enforcement agency that seizes property under division 18106  
(A) of this section because it was contraband of any type 18107  
described in division (A)(13) of section 2901.01 or division (B) 18108  
of section 2933.42 of the Revised Code shall maintain an accurate 18109  
record of each item of property so seized, which record shall 18110  
include the date on which each item was seized, the manner and 18111  
date of its disposition, and if applicable, the name of the person 18112  
who received the item; however, the record shall not identify or 18113  
enable the identification of the individual officer who seized the 18114  
item. The record of property of that nature that no longer is 18115  
needed as evidence shall be open to public inspection during the 18116  
agency's regular business hours. Each law enforcement agency that, 18117  
during any calendar year, seizes property under division (A) of 18118  
this section because it was contraband shall prepare a report 18119  
covering the calendar year that cumulates all of the information 18120  
contained in all of the records kept by the agency pursuant to 18121  
this division for that calendar year, and shall send a copy of the 18122  
cumulative report, no later than the first day of March in the 18123  
calendar year following the calendar year covered by the report, 18124  
to the attorney general. Each report received by the attorney 18125  
general is a public record open for inspection under section 18126  
149.43 of the Revised Code. Not later than the fifteenth day of 18127  
April in the calendar year in which the reports are received, the 18128  
attorney general shall send to the president of the senate and the 18129  
speaker of the house of representatives a written notification 18130  
that does all of the following: 18131

(a) Indicates that the attorney general has received from law 18132  
enforcement agencies reports of the type described in this 18133  
division that cover the previous calendar year and indicates that 18134  
the reports were received under this division; 18135

(b) Indicates that the reports are open for inspection under 18136  
section 149.43 of the Revised Code; 18137

(c) Indicates that the attorney general will provide a copy 18138  
of any or all of the reports to the president of the senate or the 18139  
speaker of the house of representatives upon request. 18140

(C) The prosecuting attorney, village solicitor, city 18141  
director of law, or similar chief legal officer who has 18142  
responsibility for the prosecution of the underlying criminal case 18143  
or administrative proceeding, or the attorney general if the 18144  
attorney general has that responsibility, shall file a petition 18145  
for the forfeiture, to the seizing law enforcement agency of the 18146  
contraband seized pursuant to division (A) of this section. The 18147  
petition shall be filed in the court that has jurisdiction over 18148  
the underlying criminal case or administrative proceeding involved 18149  
in the forfeiture. If the property was seized on the basis of both 18150  
a criminal violation and an administrative regulation violation, 18151  
the petition shall be filed by the officer and in the court that 18152  
is appropriate in relation to the criminal case. 18153

The petitioner shall conduct or cause to be conducted a 18154  
search of the appropriate public records that relate to the seized 18155  
property for the purpose of determining, and shall make or cause 18156  
to be made reasonably diligent inquiries for the purpose of 18157  
determining, any person having an ownership or security interest 18158  
in the property. The petitioner then shall give notice of the 18159  
forfeiture proceedings by personal service or by certified mail, 18160  
return receipt requested, to any persons known, because of the 18161  
conduct of the search, the making of the inquiries, or otherwise, 18162  
to have an ownership or security interest in the property, and 18163  
shall publish notice of the proceedings once each week for two 18164  
consecutive weeks in a newspaper of general circulation in the 18165  
county in which the seizure occurred. The notices shall be 18166  
personally served, mailed, and first published at least four weeks 18167  
before the hearing. They shall describe the property seized; state 18168  
the date and place of seizure; name the law enforcement agency 18169

that seized the property and, if applicable, that is holding the 18170  
property; list the time, date, and place of the hearing; and state 18171  
that any person having an ownership or security interest in the 18172  
property may contest the forfeiture. 18173

If the property seized was determined by the seizing law 18174  
enforcement officer to be contraband because of its relationship 18175  
to an underlying criminal offense or administrative violation, no 18176  
forfeiture hearing shall be held under this section unless the 18177  
person pleads guilty to or is convicted of the commission of, or 18178  
an attempt or conspiracy to commit, the offense or a different 18179  
offense arising out of the same facts and circumstances or unless 18180  
the person admits or is adjudicated to have committed the 18181  
administrative violation or a different violation arising out of 18182  
the same facts and circumstances; a forfeiture hearing shall be 18183  
held in a case of that nature no later than forty-five days after 18184  
the conviction or the admission or adjudication of the violation, 18185  
unless the time for the hearing is extended by the court for good 18186  
cause shown. The owner of any property seized because of its 18187  
relationship to an underlying criminal offense or administrative 18188  
violation may request the court to release the property to the 18189  
owner. Upon receipt of a request of that nature, if the court 18190  
determines that the property is not needed as evidence in the 18191  
underlying criminal case or administrative proceeding, the court 18192  
may permit the release of the property to the owner. As a 18193  
condition precedent to a release of that nature, the court may 18194  
require the owner to execute a bond with the court. Any bond so 18195  
required shall have sufficient sureties approved by the court, 18196  
shall be in a sum equal to the value of the property, as 18197  
determined by the court, and shall be conditioned upon the return 18198  
of the property to the court if the property is forfeited under 18199  
this section. Any property seized because of its relationship to 18200  
an underlying criminal offense or administrative violation shall 18201  
be returned to its owner if charges are not filed in relation to 18202

that underlying offense or violation within thirty days after the 18203  
seizure, if charges of that nature are filed and subsequently are 18204  
dismissed, or if charges of that nature are filed and the person 18205  
charged does not plead guilty to and is not convicted of the 18206  
offense or does not admit and is not found to have committed the 18207  
violation. 18208

If the property seized was determined by the seizing law 18209  
enforcement officer to be contraband other than because of a 18210  
relationship to an underlying criminal offense or administrative 18211  
violation, the forfeiture hearing under this section shall be held 18212  
no later than forty-five days after the seizure, unless the time 18213  
for the hearing is extended by the court for good cause shown. 18214

Where possible, a court holding a forfeiture hearing under 18215  
this section shall follow the Rules of Civil Procedure. When a 18216  
hearing is conducted under this section, property shall be 18217  
forfeited upon a showing, by a preponderance of the evidence, by 18218  
the petitioner that the person from which the property was seized 18219  
was in violation of division (A) of section 2933.42 of the Revised 18220  
Code. If that showing is made, the court shall issue an order of 18221  
forfeiture. If an order of forfeiture is issued in relation to 18222  
contraband that was released to the owner or the owner's agent 18223  
pursuant to this division or division (B)(1) of this section, the 18224  
order shall require the owner to deliver the property, by a 18225  
specified date, to the law enforcement agency that employed the 18226  
law enforcement officer who made the seizure of the property, and 18227  
the court shall deliver a copy of the order to the owner or send a 18228  
copy of it by certified mail, return receipt requested, to the 18229  
owner at the address to which notice of the seizure was given 18230  
under division (A)(2) of this section. Except as otherwise 18231  
provided in this division, all rights, interest, and title to the 18232  
forfeited contraband vests in the state, effective from the date 18233  
of seizure. 18234

No property shall be forfeited pursuant to this division if 18235  
the owner of the property establishes, by a preponderance of the 18236  
evidence, that the owner neither knew, nor should have known after 18237  
a reasonable inquiry, that the property was used, or was likely to 18238  
be used, in a crime or administrative violation. No bona fide 18239  
security interest shall be forfeited pursuant to this division if 18240  
the holder of the interest establishes, by a preponderance of the 18241  
evidence, that the holder of the interest neither knew, nor should 18242  
have known after a reasonable inquiry, that the property was used, 18243  
or likely to be used, in a crime or administrative violation, that 18244  
the holder of the interest did not expressly or impliedly consent 18245  
to the use of the property in a crime or administrative violation, 18246  
and that the security interest was perfected pursuant to law prior 18247  
to the seizure. If the holder of the interest satisfies the court 18248  
that these requirements are met, the interest shall be preserved 18249  
by the court. In a case of that nature, the court shall either 18250  
order that the agency to which the property is forfeited reimburse 18251  
the holder of the interest to the extent of the preserved interest 18252  
or order that the holder be paid for the interest from the 18253  
proceeds of any sale pursuant to division (D) of this section. 18254

(D)(1) Contraband ordered forfeited pursuant to this section 18255  
shall be disposed of pursuant to divisions (D)(1) to (7) of 18256  
section 2933.41 of the Revised Code or, if the contraband is not 18257  
described in those divisions, may be used, with the approval of 18258  
the court, by the law enforcement agency that has custody of the 18259  
contraband pursuant to division (D)(8) of that section. In the 18260  
case of contraband not described in any of those divisions and of 18261  
contraband not disposed of pursuant to any of those divisions, the 18262  
contraband shall be sold in accordance with this division or, in 18263  
the case of forfeited moneys, disposed of in accordance with this 18264  
division. If the contraband is to be sold, the prosecuting 18265  
attorney shall cause a notice of the proposed sale of the 18266

contraband to be given in accordance with law, and the property 18267  
shall be sold, without appraisal, at a public auction to the 18268  
highest bidder for cash. The proceeds of a sale and forfeited 18269  
moneys shall be applied in the following order: 18270

(a) First, to the payment of the costs incurred in connection 18271  
with the seizure of, storage of, maintenance of, and provision of 18272  
security for the contraband, the forfeiture proceeding, and, if 18273  
any, the sale; 18274

(b) Second, the remaining proceeds or forfeited moneys after 18275  
compliance with division (D)(1)(a) of this section, to the payment 18276  
of the balance due on any security interest preserved pursuant to 18277  
division (C) of this section; 18278

(c) Third, the remaining proceeds or forfeited moneys after 18279  
compliance with divisions (D)(1)(a) and (b) of this section, as 18280  
follows: 18281

(i) If the forfeiture was ordered in a juvenile court, ten 18282  
per cent to one or more alcohol and drug addiction treatment 18283  
programs that are certified by the department of alcohol and drug 18284  
addiction services under section 3793.06 of the Revised Code and 18285  
that are specified in the order of forfeiture. A juvenile court 18286  
shall not certify an alcohol or drug addiction treatment program 18287  
in the order of forfeiture unless the program is a certified 18288  
alcohol and drug addiction treatment program and, except as 18289  
provided in division (D)(1)(c)(i) of this section, unless the 18290  
program is located in the county in which the court that orders 18291  
the forfeiture is located or in a contiguous county. If no 18292  
certified alcohol and drug addiction treatment program is located 18293  
in any of those counties, the juvenile court may specify in the 18294  
order a certified alcohol and drug addiction treatment program 18295  
located anywhere within this state. 18296

(ii) If the forfeiture was ordered in a juvenile court, 18297

ninety per cent, and if the forfeiture was ordered in a court 18298  
other than a juvenile court, one hundred per cent to the law 18299  
enforcement trust fund of the prosecuting attorney and to the law 18300  
enforcement trust fund of the county sheriff if the county sheriff 18301  
made the seizure, to the law enforcement trust fund of a municipal 18302  
corporation if its police department made the seizure, to the law 18303  
enforcement trust fund of a township if the seizure was made by a 18304  
township police department, township police district police force, 18305  
or office of a township constable, to the law enforcement trust 18306  
fund of a park district created pursuant to section 511.18 or 18307  
1545.01 of the Revised Code if the seizure was made by the park 18308  
district police force or law enforcement department, to the state 18309  
highway patrol contraband, forfeiture, and other fund if the state 18310  
highway patrol made the seizure, to the department of public 18311  
safety investigative unit contraband, forfeiture, and other fund 18312  
if the investigative unit of the department of public safety made 18313  
the seizure, to the department of taxation enforcement fund if the 18314  
department of taxation made the seizure, to the board of pharmacy 18315  
drug law enforcement fund created by division (B)(1) of section 18316  
4729.65 of the Revised Code if the board made the seizure, or to 18317  
the treasurer of state for deposit into the peace officer training 18318  
commission fund if a state law enforcement agency, other than the 18319  
state highway patrol, the investigative unit of the department of 18320  
public safety, the enforcement division of the department of 18321  
taxation, or the state board of pharmacy, made the seizure. The 18322  
prosecuting attorney may decline to accept any of the remaining 18323  
proceeds or forfeited moneys, and, if the prosecuting attorney so 18324  
declines, the remaining proceeds or forfeited moneys shall be 18325  
applied to the fund described in this division that relates to the 18326  
law enforcement agency that made the seizure. 18327

A law enforcement trust fund shall be established by the 18328  
prosecuting attorney of each county who intends to receive any 18329  
remaining proceeds or forfeited moneys pursuant to this division, 18330

by the sheriff of each county, by the legislative authority of 18331  
each municipal corporation, by the board of township trustees of 18332  
each township that has a township police department, township 18333  
police district police force, or office of the constable, and by 18334  
the board of park commissioners of each park district created 18335  
pursuant to section 511.18 or 1545.01 of the Revised Code that has 18336  
a park district police force or law enforcement department, for 18337  
the purposes of this division. There is hereby created in the 18338  
state treasury the state highway patrol contraband, forfeiture, 18339  
and other fund, the department of public safety investigative unit 18340  
contraband, forfeiture, and other fund, the department of taxation 18341  
enforcement fund, and the peace officer training commission fund, 18342  
for the purposes described in this division. 18343

Proceeds or forfeited moneys distributed to any municipal 18344  
corporation, township, or park district law enforcement trust fund 18345  
shall be allocated from the fund by the legislative authority only 18346  
to the police department of the municipal corporation, by the 18347  
board of township trustees only to the township police department, 18348  
township police district police force, or office of the constable, 18349  
and by the board of park commissioners only to the park district 18350  
police force or law enforcement department. 18351

Additionally, no proceeds or forfeited moneys shall be 18352  
allocated to or used by the state highway patrol, the department 18353  
of public safety, the department of taxation, the state board of 18354  
pharmacy, or a county sheriff, prosecuting attorney, municipal 18355  
corporation police department, township police department, 18356  
township police district police force, office of the constable, or 18357  
park district police force or law enforcement department unless 18358  
the state highway patrol, department of public safety, department 18359  
of taxation, state board of pharmacy, sheriff, prosecuting 18360  
attorney, municipal corporation police department, township police 18361  
department, township police district police force, office of the 18362



constable, or park district police force or law enforcement 18363  
department has adopted a written internal control policy under 18364  
division (D)(3) of this section that addresses the use of moneys 18365  
received from the state highway patrol contraband, forfeiture, and 18366  
other fund, the department of public safety investigative unit 18367  
contraband, forfeiture, and other fund, the department of taxation 18368  
enforcement fund, the board of pharmacy drug law enforcement fund, 18369  
or the appropriate law enforcement trust fund. 18370

The state highway patrol contraband, forfeiture, and other 18371  
fund, the department of public safety investigative unit 18372  
contraband, forfeiture, and other fund, the department of taxation 18373  
enforcement fund, and a law enforcement trust fund shall be 18374  
expended only in accordance with the written internal control 18375  
policy so adopted by the recipient, and, subject to the 18376  
requirements specified in division (D)(3)(a)(ii) of this section, 18377  
only to pay the costs of protracted or complex investigations or 18378  
prosecutions, to provide reasonable technical training or 18379  
expertise, to provide matching funds to obtain federal grants to 18380  
aid law enforcement, in the support of DARE programs or other 18381  
programs designed to educate adults or children with respect to 18382  
the dangers associated with the use of drugs of abuse, to pay the 18383  
costs of emergency action taken under section 3745.13 of the 18384  
Revised Code relative to the operation of an illegal 18385  
methamphetamine laboratory if the forfeited property or money 18386  
involved was that of a person responsible for the operation of the 18387  
laboratory, or for other law enforcement purposes that the 18388  
superintendent of the state highway patrol, department of public 18389  
safety, department of taxation, prosecuting attorney, county 18390  
sheriff, legislative authority, board of township trustees, or 18391  
board of park commissioners determines to be appropriate. The 18392  
board of pharmacy drug law enforcement fund shall be expended only 18393  
in accordance with the written internal control policy so adopted 18394  
by the board and only in accordance with section 4729.65 of the 18395

Revised Code, except that it also may be expended to pay the costs 18396  
of emergency action taken under section 3745.13 of the Revised 18397  
Code relative to the operation of an illegal methamphetamine 18398  
laboratory if the forfeited property or money involved was that of 18399  
a person responsible for the operation of the laboratory. The 18400  
state highway patrol contraband, forfeiture, and other fund, the 18401  
department of public safety investigative unit contraband, 18402  
forfeiture, and other fund, the department of taxation enforcement 18403  
fund, the board of pharmacy drug law enforcement fund, and a law 18404  
enforcement trust fund shall not be used to meet the operating 18405  
costs of the state highway patrol, of the investigative unit of 18406  
the department of public safety, of the department of taxation 18407  
enforcement division, of the state board of pharmacy, of any 18408  
political subdivision, or of any office of a prosecuting attorney 18409  
or county sheriff that are unrelated to law enforcement. 18410

Proceeds and forfeited moneys that are paid into the state 18411  
treasury to be deposited into the peace officer training 18412  
commission fund shall be used by the commission only to pay the 18413  
costs of peace officer training. 18414

Any sheriff or prosecuting attorney who receives proceeds or 18415  
forfeited moneys pursuant to this division during any calendar 18416  
year shall file a report with the county auditor, no later than 18417  
the thirty-first day of January of the next calendar year, 18418  
verifying that the proceeds and forfeited moneys were expended 18419  
only for the purposes authorized by this division and division 18420  
(D)(3)(a)(ii) of this section and specifying the amounts expended 18421  
for each authorized purpose. Any municipal corporation police 18422  
department that is allocated proceeds or forfeited moneys from a 18423  
municipal corporation law enforcement trust fund pursuant to this 18424  
division during any calendar year shall file a report with the 18425  
legislative authority of the municipal corporation, no later than 18426  
the thirty-first day of January of the next calendar year, 18427

verifying that the proceeds and forfeited moneys were expended 18428  
only for the purposes authorized by this division and division 18429  
(D)(3)(a)(ii) of this section and specifying the amounts expended 18430  
for each authorized purpose. Any township police department, 18431  
township police district police force, or office of the constable 18432  
that is allocated proceeds or forfeited moneys from a township law 18433  
enforcement trust fund pursuant to this division during any 18434  
calendar year shall file a report with the board of township 18435  
trustees of the township, no later than the thirty-first day of 18436  
January of the next calendar year, verifying that the proceeds and 18437  
forfeited moneys were expended only for the purposes authorized by 18438  
this division and division (D)(3)(a)(ii) of this section and 18439  
specifying the amounts expended for each authorized purpose. Any 18440  
park district police force or law enforcement department that is 18441  
allocated proceeds or forfeited moneys from a park district law 18442  
enforcement trust fund pursuant to this division during any 18443  
calendar year shall file a report with the board of park 18444  
commissioners of the park district, no later than the thirty-first 18445  
day of January of the next calendar year, verifying that the 18446  
proceeds and forfeited moneys were expended only for the purposes 18447  
authorized by this division and division (D)(3)(a)(ii) of this 18448  
section and specifying the amounts expended for each authorized 18449  
purpose. The superintendent of the state highway patrol shall file 18450  
a report with the attorney general, no later than the thirty-first 18451  
day of January of each calendar year, verifying that proceeds and 18452  
forfeited moneys paid into the state highway patrol contraband, 18453  
forfeiture, and other fund pursuant to this division during the 18454  
prior calendar year were used by the state highway patrol during 18455  
the prior calendar year only for the purposes authorized by this 18456  
division and specifying the amounts expended for each authorized 18457  
purpose. The executive director of the state board of pharmacy 18458  
shall file a report with the attorney general, no later than the 18459  
thirty-first day of January of each calendar year, verifying that 18460

proceeds and forfeited moneys paid into the board of pharmacy drug 18461  
law enforcement fund during the prior calendar year were used only 18462  
in accordance with section 4729.65 of the Revised Code and 18463  
specifying the amounts expended for each authorized purpose. The 18464  
peace officer training commission shall file a report with the 18465  
attorney general, no later than the thirty-first day of January of 18466  
each calendar year, verifying that proceeds and forfeited moneys 18467  
paid into the peace officer training commission fund pursuant to 18468  
this division during the prior calendar year were used by the 18469  
commission during the prior calendar year only to pay the costs of 18470  
peace officer training and specifying the amount used for that 18471  
purpose. 18472

The tax commissioner shall file a report with the attorney 18473  
general, not later than the thirty-first day of January of each 18474  
calendar year, verifying that proceeds and forfeited moneys paid 18475  
into the department of taxation enforcement fund pursuant to this 18476  
division during the prior calendar year were used by the 18477  
enforcement division during the prior calendar year to pay only 18478  
the costs of enforcing the tax laws and specifying the amount used 18479  
for that purpose. 18480

(2) If more than one law enforcement agency is substantially 18481  
involved in the seizure of contraband that is forfeited pursuant 18482  
to this section, the court ordering the forfeiture shall equitably 18483  
divide the proceeds or forfeited moneys, after calculating any 18484  
distribution to the law enforcement trust fund of the prosecuting 18485  
attorney pursuant to division (D)(1)(c) of this section, among any 18486  
county sheriff whose office is determined by the court to be 18487  
substantially involved in the seizure, any legislative authority 18488  
of a municipal corporation whose police department is determined 18489  
by the court to be substantially involved in the seizure, any 18490  
board of township trustees whose law enforcement agency is 18491  
determined by the court to be substantially involved in the 18492

seizure, any board of park commissioners of a park district whose 18493  
police force or law enforcement department is determined by the 18494  
court to be substantially involved in the seizure, the state board 18495  
of pharmacy if it is determined by the court to be substantially 18496  
involved in the seizure, the investigative unit of the department 18497  
of public safety if it is determined by the court to be 18498  
substantially involved in the seizure, the enforcement division of 18499  
the department of taxation if it is determined by the court to be 18500  
substantially involved in the seizure, and the state highway 18501  
patrol if it is determined by the court to be substantially 18502  
involved in the seizure. The proceeds or forfeited moneys shall be 18503  
deposited in the respective law enforcement trust funds of the 18504  
county sheriff, municipal corporation, township, and park 18505  
district, the board of pharmacy drug law enforcement fund, the 18506  
department of public safety investigative unit contraband, 18507  
forfeiture, and other fund, the department of taxation enforcement 18508  
fund, or the state highway patrol contraband, forfeiture, and 18509  
other fund, in accordance with division (D)(1)(c) of this section. 18510  
If a state law enforcement agency, other than the state highway 18511  
patrol, the investigative unit of the department of public safety, 18512  
the department of taxation, or the state board of pharmacy, is 18513  
determined by the court to be substantially involved in the 18514  
seizure, the state agency's equitable share of the proceeds and 18515  
forfeited moneys shall be paid to the treasurer of state for 18516  
deposit into the peace officer training commission fund. 18517

(3)(a)(i) Prior to being allocated or using any proceeds or 18518  
forfeited moneys out of the state highway patrol contraband, 18519  
forfeiture, and other fund, the department of public safety 18520  
investigative unit contraband, forfeiture, and other fund, the 18521  
department of taxation enforcement fund, the board of pharmacy 18522  
drug law enforcement fund, or a law enforcement trust fund under 18523  
division (D)(1)(c) of this section, the state highway patrol, the 18524  
department of public safety, the department of taxation, the state 18525

board of pharmacy, and a county sheriff, prosecuting attorney, 18526  
municipal corporation police department, township police 18527  
department, township police district police force, office of the 18528  
constable, or park district police force or law enforcement 18529  
department shall adopt a written internal control policy that 18530  
addresses the state highway patrol's, department of public 18531  
safety's, department of taxation's, state board of pharmacy's, 18532  
sheriff's, prosecuting attorney's, police department's, police 18533  
force's, office of the constable's, or law enforcement 18534  
department's use and disposition of all the proceeds and forfeited 18535  
moneys received and that provides for the keeping of detailed 18536  
financial records of the receipts of the proceeds and forfeited 18537  
moneys, the general types of expenditures made out of the proceeds 18538  
and forfeited moneys, the specific amount of each general type of 18539  
expenditure, and the amounts, portions, and programs described in 18540  
division (D)(3)(a)(ii) of this section. The policy shall not 18541  
provide for or permit the identification of any specific 18542  
expenditure that is made in an ongoing investigation. 18543

All financial records of the receipts of the proceeds and 18544  
forfeited moneys, the general types of expenditures made out of 18545  
the proceeds and forfeited moneys, the specific amount of each 18546  
general type of expenditure by the state highway patrol, by the 18547  
department of public safety, by the department of taxation, by the 18548  
state board of pharmacy, and by a sheriff, prosecuting attorney, 18549  
municipal corporation police department, township police 18550  
department, township police district police force, office of the 18551  
constable, or park district police force or law enforcement 18552  
department, and the amounts, portions, and programs described in 18553  
division (D)(3)(a)(ii) of this section are public records open for 18554  
inspection under section 149.43 of the Revised Code. Additionally, 18555  
a written internal control policy adopted under this division is a 18556  
public record of that nature, and the state highway patrol, the 18557  
department of public safety, the department of taxation, the state 18558

board of pharmacy, or the sheriff, prosecuting attorney, municipal 18559  
corporation police department, township police department, 18560  
township police district police force, office of the constable, or 18561  
park district police force or law enforcement department that 18562  
adopted it shall comply with it. 18563

(ii) The written internal control policy of a county sheriff, 18564  
prosecuting attorney, municipal corporation police department, 18565  
township police department, township police district police force, 18566  
office of the constable, or park district police force or law 18567  
enforcement department shall provide that at least ten per cent of 18568  
the first one hundred thousand dollars of proceeds and forfeited 18569  
moneys deposited during each calendar year in the sheriff's, 18570  
prosecuting attorney's, municipal corporation's, township's, or 18571  
park district's law enforcement trust fund pursuant to division 18572  
(B)(7)(c)(ii) of section 2923.46 or division (B)(8)(c)(ii) of 18573  
section 2925.44 of the Revised Code, and at least twenty per cent 18574  
of the proceeds and forfeited moneys exceeding one hundred 18575  
thousand dollars that are so deposited, shall be used in 18576  
connection with community preventive education programs. The 18577  
manner in which the described percentages are so used shall be 18578  
determined by the sheriff, prosecuting attorney, department, 18579  
police force, or office of the constable after the receipt and 18580  
consideration of advice on appropriate community preventive 18581  
education programs from the county's board of alcohol, drug 18582  
addiction, and mental health services, from the county's alcohol 18583  
and drug addiction services board, or through appropriate 18584  
community dialogue. The financial records described in division 18585  
(D)(3)(a)(i) of this section shall specify the amount of the 18586  
proceeds and forfeited moneys deposited during each calendar year 18587  
in the sheriff's, prosecuting attorney's, municipal corporation's, 18588  
township's, or park district's law enforcement trust fund pursuant 18589  
to division (B)(7)(c)(ii) of section 2923.46 or division 18590  
(B)(8)(c)(ii) of section 2925.44 of the Revised Code, the portion 18591

of that amount that was used pursuant to the requirements of this 18592  
division, and the community preventive education programs in 18593  
connection with which the portion of that amount was so used. 18594

As used in this division, "community preventive education 18595  
programs" includes, but is not limited to, DARE programs and other 18596  
programs designed to educate adults or children with respect to 18597  
the dangers associated with the use of drugs of abuse. 18598

(b) Each sheriff, prosecuting attorney, municipal corporation 18599  
police department, township police department, township police 18600  
district police force, office of the constable, or park district 18601  
police force or law enforcement department that receives in any 18602  
calendar year any proceeds or forfeited moneys out of a law 18603  
enforcement trust fund under division (D)(1)(c) of this section or 18604  
uses any proceeds or forfeited moneys in its law enforcement trust 18605  
fund in any calendar year shall prepare a report covering the 18606  
calendar year that cumulates all of the information contained in 18607  
all of the public financial records kept by the sheriff, 18608  
prosecuting attorney, municipal corporation police department, 18609  
township police department, township police district police force, 18610  
office of the constable, or park district police force or law 18611  
enforcement department pursuant to division (D)(3)(a) of this 18612  
section for that calendar year, and shall send a copy of the 18613  
cumulative report, no later than the first day of March in the 18614  
calendar year following the calendar year covered by the report, 18615  
to the attorney general. 18616

The superintendent of the state highway patrol shall prepare 18617  
a report covering each calendar year in which the state highway 18618  
patrol uses any proceeds or forfeited moneys in the state highway 18619  
patrol contraband, forfeiture, and other fund under division 18620  
(D)(1)(c) of this section, that cumulates all of the information 18621  
contained in all of the public financial records kept by the state 18622  
highway patrol pursuant to division (D)(3)(a) of this section for 18623



that calendar year, and shall send a copy of the cumulative 18624  
report, no later than the first day of March in the calendar year 18625  
following the calendar year covered by the report, to the attorney 18626  
general. 18627

The department of public safety shall prepare a report 18628  
covering each fiscal year in which the department uses any 18629  
proceeds or forfeited moneys in the department of public safety 18630  
investigative unit contraband, forfeiture, and other fund under 18631  
division (D)(1)(c) of this section that cumulates all of the 18632  
information contained in all of the public financial records kept 18633  
by the department pursuant to division (D)(3)(a) of this section 18634  
for that fiscal year. The department shall send a copy of the 18635  
cumulative report to the attorney general no later than the first 18636  
day of August in the fiscal year following the fiscal year covered 18637  
by the report. The director of public safety shall include in the 18638  
report a verification that proceeds and forfeited moneys paid into 18639  
the department of public safety investigative unit contraband, 18640  
forfeiture, and other fund under division (D)(1)(c) of this 18641  
section during the preceding fiscal year were used by the 18642  
department during that fiscal year only for the purposes 18643  
authorized by that division and shall specify the amount used for 18644  
each authorized purpose. 18645

The tax commissioner shall prepare a report covering each 18646  
calendar year in which the department of taxation enforcement 18647  
division uses any proceeds or forfeited moneys in the department 18648  
of taxation enforcement fund under division (D)(1)(c) of this 18649  
section, that cumulates all of the information contained in all of 18650  
the public financial records kept by the department of taxation 18651  
enforcement division pursuant to division (D)(3)(a) of this 18652  
section for that calendar year, and shall send a copy of the 18653  
cumulative report, not later than the first day of March in the 18654  
calendar year following the calendar year covered by the report, 18655

to the attorney general. 18656

The executive director of the state board of pharmacy shall 18657  
prepare a report covering each calendar year in which the board 18658  
uses any proceeds or forfeited moneys in the board of pharmacy 18659  
drug law enforcement fund under division (D)(1)(c) of this 18660  
section, that cumulates all of the information contained in all of 18661  
the public financial records kept by the board pursuant to 18662  
division (D)(3)(a) of this section for that calendar year, and 18663  
shall send a copy of the cumulative report, no later than the 18664  
first day of March in the calendar year following the calendar 18665  
year covered by the report, to the attorney general. Each report 18666  
received by the attorney general is a public record open for 18667  
inspection under section 149.43 of the Revised Code. Not later 18668  
than the fifteenth day of April in the calendar year in which the 18669  
reports are received, the attorney general shall send to the 18670  
president of the senate and the speaker of the house of 18671  
representatives a written notification that does all of the 18672  
following: 18673

(i) Indicates that the attorney general has received from 18674  
entities or persons specified in this division reports of the type 18675  
described in this division that cover the previous calendar year 18676  
and indicates that the reports were received under this division; 18677

(ii) Indicates that the reports are open for inspection under 18678  
section 149.43 of the Revised Code; 18679

(iii) Indicates that the attorney general will provide a copy 18680  
of any or all of the reports to the president of the senate or the 18681  
speaker of the house of representatives upon request. 18682

(4)(a) A law enforcement agency that receives pursuant to 18683  
federal law proceeds from a sale of forfeited contraband, proceeds 18684  
from another disposition of forfeited contraband, or forfeited 18685  
contraband moneys shall deposit, use, and account for the proceeds 18686

or forfeited moneys in accordance with, and otherwise comply with, 18687  
the applicable federal law. 18688

(b) If the state highway patrol receives pursuant to federal 18689  
law proceeds from a sale of forfeited contraband, proceeds from 18690  
another disposition of forfeited contraband, or forfeited 18691  
contraband moneys, the appropriate governmental officials shall 18692  
deposit into the state highway patrol contraband, forfeiture, and 18693  
other fund all interest or other earnings derived from the 18694  
investment of the proceeds or forfeited moneys. The state highway 18695  
patrol shall use and account for that interest or other earnings 18696  
in accordance with the applicable federal law. 18697

(c) If the investigative unit of the department of public 18698  
safety receives pursuant to federal law proceeds from a sale of 18699  
forfeited contraband, proceeds from another disposition of 18700  
forfeited contraband, or forfeited contraband moneys, the 18701  
appropriate governmental officials shall deposit into the 18702  
department of public safety investigative unit contraband, 18703  
forfeiture, and other fund all interest or other earnings derived 18704  
from the investment of the proceeds or forfeited moneys. The 18705  
department shall use and account for that interest or other 18706  
earnings in accordance with the applicable federal law. 18707

(d) If the tax commissioner receives pursuant to federal law 18708  
proceeds from a sale of forfeited contraband, proceeds from 18709  
another disposition of forfeited contraband, or forfeited 18710  
contraband moneys, the appropriate governmental officials shall 18711  
deposit into the department of taxation enforcement fund all 18712  
interest or other earnings derived from the investment of the 18713  
proceeds or forfeited moneys. The department shall use and account 18714  
for that interest or other earnings in accordance with the 18715  
applicable federal law. 18716

(e) Divisions (D)(1) to (3) of this section do not apply to 18717  
proceeds or forfeited moneys received pursuant to federal law or 18718

to the interest or other earnings that are derived from the 18719  
investment of proceeds or forfeited moneys received pursuant to 18720  
federal law and that are described in division (D)(4)(b) of this 18721  
section. 18722

(E) Upon the sale pursuant to this section of any property 18723  
that is required to be titled or registered under law, the state 18724  
shall issue an appropriate certificate of title or registration to 18725  
the purchaser. If the state is vested with title pursuant to 18726  
division (C) of this section and elects to retain property that is 18727  
required to be titled or registered under law, the state shall 18728  
issue an appropriate certificate of title or registration. 18729

(F) Notwithstanding any provisions of this section to the 18730  
contrary, any property that is lawfully seized in relation to a 18731  
violation of section 2923.32 of the Revised Code shall be subject 18732  
to forfeiture and disposition in accordance with sections 2923.32 18733  
to 2923.36 of the Revised Code; any property that is forfeited 18734  
pursuant to section 2923.44 or 2923.45 of the Revised Code in 18735  
relation to a violation of section 2923.42 of the Revised Code or 18736  
in relation to an act of a juvenile that is a violation of section 18737  
2923.42 of the Revised Code may be subject to forfeiture and 18738  
disposition in accordance with sections 2923.44 to 2923.47 of the 18739  
Revised Code; and any property that is forfeited pursuant to 18740  
section 2925.42 or 2925.43 of the Revised Code in relation to a 18741  
felony drug abuse offense, as defined in section 2925.01 of the 18742  
Revised Code, or in relation to an act that, if committed by an 18743  
adult, would be a felony drug abuse offense of that nature, may be 18744  
subject to forfeiture and disposition in accordance with sections 18745  
2925.41 to 2925.45 of the Revised Code or this section. 18746

(G) Any failure of a law enforcement officer or agency, a 18747  
prosecuting attorney, village solicitor, city director of law, or 18748  
similar chief legal officer, a court, or the attorney general to 18749  
comply with any duty imposed by this section in relation to any 18750

property seized or with any other provision of this section in 18751  
relation to any property seized does not affect the validity of 18752  
the seizure of the property, provided the seizure itself was made 18753  
in accordance with law, and is not and shall not be considered to 18754  
be the basis for the suppression of any evidence resulting from 18755  
the seizure of the property, provided the seizure itself was made 18756  
in accordance with law. 18757

(H) Contraband that has been forfeited pursuant to division 18758  
(C) of this section shall not be available for use to pay any fine 18759  
imposed upon a person who is convicted of or pleads guilty to an 18760  
underlying criminal offense or a different offense arising out of 18761  
the same facts and circumstances. 18762

**Sec. 2935.01.** As used in this chapter: 18763

(A) "Magistrate" has the same meaning as in section 2931.01 18764  
of the Revised Code. 18765

(B) "Peace officer" includes, except as provided in section 18766  
2935.081 of the Revised Code, a sheriff; deputy sheriff; marshal; 18767  
deputy marshal; member of the organized police department of any 18768  
municipal corporation, including a member of the organized police 18769  
department of a municipal corporation in an adjoining state 18770  
serving in Ohio under a contract pursuant to section 737.04 of the 18771  
Revised Code; member of a police force employed by a metropolitan 18772  
housing authority under division (D) of section 3735.31 of the 18773  
Revised Code; member of a police force employed by a regional 18774  
transit authority under division (Y) of section 306.05 of the 18775  
Revised Code; state university law enforcement officer appointed 18776  
under section 3345.04 of the Revised Code; enforcement agent of 18777  
the department of public safety designated under section 5502.14 18778  
of the Revised Code; employee of the department of taxation to 18779  
whom investigation powers have been delegated under section 18780  
~~5743.45~~ 5703.58 of the Revised Code; employee of the department of 18781

natural resources who is a natural resources law enforcement staff 18782  
officer designated pursuant to section 1501.013 of the Revised 18783  
Code, a forest officer designated pursuant to section 1503.29 of 18784  
the Revised Code, a preserve officer designated pursuant to 18785  
section 1517.10 of the Revised Code, a wildlife officer designated 18786  
pursuant to section 1531.13 of the Revised Code, a park officer 18787  
designated pursuant to section 1541.10 of the Revised Code, or a 18788  
state watercraft officer designated pursuant to section 1547.521 18789  
of the Revised Code; individual designated to perform law 18790  
enforcement duties under section 511.232, 1545.13, or 6101.75 of 18791  
the Revised Code; veterans' home police officer appointed under 18792  
section 5907.02 of the Revised Code; special police officer 18793  
employed by a port authority under section 4582.04 or 4582.28 of 18794  
the Revised Code; police constable of any township; police officer 18795  
of a township or joint township police district; a special police 18796  
officer employed by a municipal corporation at a municipal 18797  
airport, or other municipal air navigation facility, that has 18798  
scheduled operations, as defined in section 119.3 of Title 14 of 18799  
the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and 18800  
that is required to be under a security program and is governed by 18801  
aviation security rules of the transportation security 18802  
administration of the United States department of transportation 18803  
as provided in Parts 1542. and 1544. of Title 49 of the Code of 18804  
Federal Regulations, as amended; the house sergeant at arms if the 18805  
house sergeant at arms has arrest authority pursuant to division 18806  
(E)(1) of section 101.311 of the Revised Code; and an assistant 18807  
house sergeant at arms; officer or employee of the bureau of 18808  
criminal identification and investigation established pursuant to 18809  
section 109.51 of the Revised Code who has been awarded a 18810  
certificate by the executive director of the Ohio peace officer 18811  
training commission attesting to the officer's or employee's 18812  
satisfactory completion of an approved state, county, municipal, 18813  
or department of natural resources peace officer basic training 18814

program and who is providing assistance upon request to a law 18815  
enforcement officer or emergency assistance to a peace officer 18816  
pursuant to section 109.54 or 109.541 of the Revised Code; and, 18817  
for the purpose of arrests within those areas, for the purposes of 18818  
Chapter 5503. of the Revised Code, and the filing of and service 18819  
of process relating to those offenses witnessed or investigated by 18820  
them, the superintendent and troopers of the state highway patrol. 18821

(C) "Prosecutor" includes the county prosecuting attorney and 18822  
any assistant prosecutor designated to assist the county 18823  
prosecuting attorney, and, in the case of courts inferior to 18824  
courts of common pleas, includes the village solicitor, city 18825  
director of law, or similar chief legal officer of a municipal 18826  
corporation, any such officer's assistants, or any attorney 18827  
designated by the prosecuting attorney of the county to appear for 18828  
the prosecution of a given case. 18829

(D) "Offense," except where the context specifically 18830  
indicates otherwise, includes felonies, misdemeanors, and 18831  
violations of ordinances of municipal corporations and other 18832  
public bodies authorized by law to adopt penal regulations. 18833

**Sec. 2935.36.** (A) The prosecuting attorney may establish 18834  
pre-trial diversion programs for adults who are accused of 18835  
committing criminal offenses and whom the prosecuting attorney 18836  
believes probably will not offend again. The prosecuting attorney 18837  
may require, as a condition of an accused's participation in the 18838  
program, the accused to pay a reasonable fee for supervision 18839  
services that include, but are not limited to, monitoring and drug 18840  
testing. The programs shall be operated pursuant to written 18841  
standards approved by journal entry by the presiding judge or, in 18842  
courts with only one judge, the judge of the court of common pleas 18843  
and shall not be applicable to any of the following: 18844

(1) Repeat offenders or dangerous offenders; 18845

(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:

(a) The accused did not cause, threaten, or intend serious physical harm to any person;

(b) The offense was the result of circumstances not likely to recur;

(c) The accused has no history of prior delinquency or criminal activity;

(d) The accused has led a law-abiding life for a substantial time before commission of the alleged offense;

(e) Substantial grounds tending to excuse or justify the alleged offense.

(3) Persons accused of a violation of Chapter 2925. or 3719. of the Revised Code;

(4) Drug dependent persons or persons in danger of becoming drug dependent persons, as defined in section 3719.011 of the Revised Code. However, this division does not affect the eligibility of such persons for intervention in lieu of conviction pursuant to section 2951.041 of the Revised Code.

(5) Persons accused of a violation of section 4511.19 of the Revised Code or a violation of any substantially similar municipal



ordinance. 18876

(B) An accused who enters a diversion program shall do all of 18877  
the following: 18878

(1) Waive, in writing and contingent upon the accused's 18879  
successful completion of the program, the accused's right to a 18880  
speedy trial, the preliminary hearing, the time period within 18881  
which the grand jury may consider an indictment against the 18882  
accused, and arraignment, unless the hearing, indictment, or 18883  
arraignment has already occurred; 18884

(2) Agree, in writing, to the tolling while in the program of 18885  
all periods of limitation established by statutes or rules of 18886  
court, that are applicable to the offense with which the accused 18887  
is charged and to the conditions of the diversion program 18888  
established by the prosecuting attorney; 18889

(3) Agree, in writing, to pay any reasonable fee for 18890  
supervision services established by the prosecuting attorney. 18891

(C) The trial court, upon the application of the prosecuting 18892  
attorney, shall order the release from confinement of any accused 18893  
who has agreed to enter a pre-trial diversion program and shall 18894  
discharge and release any existing bail and release any sureties 18895  
on recognizances and shall release the accused on a recognizance 18896  
bond conditioned upon the accused's compliance with the terms of 18897  
the diversion program. The prosecuting attorney shall notify every 18898  
victim of the crime and the arresting officers of the prosecuting 18899  
attorney's intent to permit the accused to enter a pre-trial 18900  
diversion program. The victim of the crime and the arresting 18901  
officers shall have the opportunity to file written objections 18902  
with the prosecuting attorney prior to the commencement of the 18903  
pre-trial diversion program. 18904

(D) If the accused satisfactorily completes the diversion 18905  
program, the prosecuting attorney shall recommend to the trial 18906

court that the charges against the accused be dismissed, and the court, upon the recommendation of the prosecuting attorney, shall dismiss the charges. If the accused chooses not to enter the prosecuting attorney's diversion program, or if the accused violates the conditions of the agreement pursuant to which the accused has been released, the accused may be brought to trial upon the charges in the manner provided by law, and the waiver executed pursuant to division (B)(1) of this section shall be void on the date the accused is removed from the program for the violation.

(E) As used in this section:

(1) "Repeat offender" means a person who has a history of persistent criminal activity and whose character and condition reveal a substantial risk that the person will commit another 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 18938  
felony drug abuse offense; 18939

(e) Having been convicted of two or more felonies and having 18940  
been imprisoned pursuant to sentence for one or more felonies, the 18941  
person commits a subsequent offense; 18942

(f) Having been convicted of three or more offenses of any 18943  
type or degree other than traffic offenses, alcoholic intoxication 18944  
offenses, or minor misdemeanors and having been imprisoned 18945  
pursuant to sentence for any such offense, the person commits a 18946  
subsequent offense. 18947

(2) "Dangerous offender" means a person who has committed an 18948  
offense, whose history, character, and condition reveal a 18949  
substantial risk that the person will be a danger to others, and 18950  
whose conduct has been characterized by a pattern of repetitive, 18951  
compulsive, or aggressive behavior with heedless indifference to 18952  
the consequences. 18953

**Sec. 2949.091.** (A)(1) The court, in which any person is 18954  
convicted of or pleads guilty to any offense other than a traffic 18955  
offense that is not a moving violation, shall impose the sum of 18956  
~~eleven~~ fifteen dollars as costs in the case in addition to any 18957  
other court costs that the court is required by law to impose upon 18958  
the offender. All such moneys collected during a month shall be 18959  
transmitted on or before the twentieth day of the following month 18960  
by the clerk of the court to the treasurer of state and deposited 18961  
by the treasurer of state into the general revenue fund. The court 18962  
shall not waive the payment of the additional ~~eleven~~ fifteen 18963  
dollars court costs, unless the court determines that the offender 18964  
is indigent and waives the payment of all court costs imposed upon 18965  
the indigent offender. 18966

(2) The juvenile court, in which a child is found to be a 18967  
delinquent child or a juvenile traffic offender for an act which, 18968

if committed by an adult, would be an offense other than a traffic 18969  
offense that is not a moving violation, shall impose the sum of 18970  
~~eleven~~ fifteen dollars as costs in the case in addition to any 18971  
other court costs that the court is required or permitted by law 18972  
to impose upon the delinquent child or juvenile traffic offender. 18973  
All such moneys collected during a month shall be transmitted on 18974  
or before the twentieth day of the following month by the clerk of 18975  
the court to the treasurer of state and deposited by the treasurer 18976  
of state into the general revenue fund. The ~~eleven~~ fifteen dollars 18977  
court costs shall be collected in all cases unless the court 18978  
determines the juvenile is indigent and waives the payment of all 18979  
court costs, or enters an order on its journal stating that it has 18980  
determined that the juvenile is indigent, that no other court 18981  
costs are to be taxed in the case, and that the payment of the 18982  
~~eleven~~ fifteen dollars court costs is waived. 18983

(B) Whenever a person is charged with any offense other than 18984  
a traffic offense that is not a moving violation and posts bail, 18985  
the court shall add to the amount of the bail the ~~eleven~~ fifteen 18986  
dollars required to be paid by division (A)(1) of this section. 18987  
The ~~eleven~~ fifteen dollars shall be retained by the clerk of the 18988  
court until the person is convicted, pleads guilty, forfeits bail, 18989  
is found not guilty, or has the charges dismissed. If the person 18990  
is convicted, pleads guilty, or forfeits bail, the clerk shall 18991  
transmit the ~~eleven~~ fifteen dollars on or before the twentieth day 18992  
of the month following the month in which the person was 18993  
convicted, pleaded guilty, or forfeited bail to the treasurer of 18994  
state, who shall deposit it into the general revenue fund. If the 18995  
person is found not guilty or the charges are dismissed, the clerk 18996  
shall return the ~~eleven~~ fifteen dollars to the person. 18997

(C) No person shall be placed or held in a detention facility 18998  
for failing to pay the additional ~~eleven~~ fifteen dollars court 18999  
costs or bail that are required to be paid by this section. 19000

(D) As used in this section: 19001

(1) "Moving violation" and "bail" have the same meanings as 19002  
in section 2743.70 of the Revised Code. 19003

(2) "Detention facility" has the same meaning as in section 19004  
2921.01 of the Revised Code. 19005

**Sec. 3111.04.** (A) An action to determine the existence or 19006  
nonexistence of the father and child relationship may be brought 19007  
by the child or the child's personal representative, the child's 19008  
mother or her personal representative, a man alleged or alleging 19009  
himself to be the child's father, the child support enforcement 19010  
agency of the county in which the child resides if the child's 19011  
mother is a recipient of public assistance or of services under 19012  
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 19013  
U.S.C.A. 651, as amended, or the alleged father's personal 19014  
representative. 19015

(B) An agreement does not bar an action under this section. 19016

(C) If an action under this section is brought before the 19017  
birth of the child and if the action is contested, all 19018  
proceedings, except service of process and the taking of 19019  
depositions to perpetuate testimony, may be stayed until after the 19020  
birth. 19021

(D) A recipient of public assistance or of services under 19022  
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 19023  
U.S.C.A. 651, as amended, shall cooperate with the child support 19024  
enforcement agency of the county in which a child resides to 19025  
obtain an administrative determination pursuant to sections 19026  
3111.38 to 3111.54 of the Revised Code, or, if necessary, a court 19027  
determination pursuant to sections 3111.01 to 3111.18 of the 19028  
Revised Code, of the existence or nonexistence of a parent and 19029  
child relationship between the father and the child. If the 19030

recipient fails to cooperate, the agency may commence an action to 19031  
determine the existence or nonexistence of a parent and child 19032  
relationship between the father and the child pursuant to sections 19033  
3111.01 to 3111.18 of the Revised Code. 19034

(E) As used in this section, "public assistance" means 19035  
medical assistance under Chapter 5111. of the Revised Code, 19036  
assistance under Chapter 5107. of the Revised Code, ~~or~~ disability 19037  
financial assistance under Chapter 5115. of the Revised Code, or 19038  
disability medical assistance under Chapter 5115. of the Revised 19039  
Code. 19040

**Sec. 3119.01.** (A) As used in the Revised Code, "child support 19041  
enforcement agency" means a child support enforcement agency 19042  
designated under former section 2301.35 of the Revised Code prior 19043  
to October 1, 1997, or a private or government entity designated 19044  
as a child support enforcement agency under section 307.981 of the 19045  
Revised Code. 19046

(B) As used in this chapter and Chapters 3121., 3123., and 19047  
3125. of the Revised Code: 19048

(1) "Administrative child support order" means any order 19049  
issued by a child support enforcement agency for the support of a 19050  
child pursuant to section 3109.19 or 3111.81 of the Revised Code 19051  
or former section 3111.211 of the Revised Code, section 3111.21 of 19052  
the Revised Code as that section existed prior to January 1, 1998, 19053  
or section 3111.20 or 3111.22 of the Revised Code as those 19054  
sections existed prior to March 22, 2001. 19055

(2) "Child support order" means either a court child support 19056  
order or an administrative child support order. 19057

(3) "Obligee" means the person who is entitled to receive the 19058  
support payments under a support order. 19059

(4) "Obligor" means the person who is required to pay support 19060

under a support order. 19061

(5) "Support order" means either an administrative child support order or a court support order. 19062  
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(C) As used in this chapter: 19064

(1) "Combined gross income" means the combined gross income of both parents. 19065  
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(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. 19067  
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(3) "Court support order" means either a court child support order or an order for the support of a spouse or former spouse issued pursuant to Chapter 3115. of the Revised Code, section 3105.18, 3105.65, or 3113.31 of the Revised Code, or division (B) of former section 3113.21 of the Revised Code. 19074  
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(4) "Extraordinary medical expenses" means any uninsured medical expenses incurred for a child during a calendar year that exceed one hundred dollars. 19079  
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(5) "Income" means either of the following: 19082

(a) For a parent who is employed to full capacity, the gross income of the parent; 19083  
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(b) For a parent who is unemployed or underemployed, the sum of the gross income of the parent and any potential income of the parent. 19085  
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(6) "Insurer" means any person authorized under Title XXXIX of the Revised Code to engage in the business of insurance in this state, any health insuring corporation, and any legal entity that 19088  
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is self-insured and provides benefits to its employees or members. 19091

(7) "Gross income" means, except as excluded in division 19092  
(C)(7) of this section, the total of all earned and unearned 19093  
income from all sources during a calendar year, whether or not the 19094  
income is taxable, and includes income from salaries, wages, 19095  
overtime pay, and bonuses to the extent described in division (D) 19096  
of section 3119.05 of the Revised Code; commissions; royalties; 19097  
tips; rents; dividends; severance pay; pensions; interest; trust 19098  
income; annuities; social security benefits, including retirement, 19099  
disability, and survivor benefits that are not means-tested; 19100  
workers' compensation benefits; unemployment insurance benefits; 19101  
disability insurance benefits; benefits that are not means-tested 19102  
and that are received by and in the possession of the veteran who 19103  
is the beneficiary for any service-connected disability under a 19104  
program or law administered by the United States department of 19105  
veterans' affairs or veterans' administration; spousal support 19106  
actually received; and all other sources of income. "Gross income" 19107  
includes income of members of any branch of the United States 19108  
armed services or national guard, including, amounts representing 19109  
base pay, basic allowance for quarters, basic allowance for 19110  
subsistence, supplemental subsistence allowance, cost of living 19111  
adjustment, specialty pay, variable housing allowance, and pay for 19112  
training or other types of required drills; self-generated income; 19113  
and potential cash flow from any source. 19114

"Gross income" does not include any of the following: 19115

(a) Benefits received from means-tested government 19116  
administered programs, including Ohio works first; prevention, 19117  
retention, and contingency; means-tested veterans' benefits; 19118  
supplemental security income; food stamps; disability financial 19119  
assistance; or other assistance for which eligibility is 19120  
determined on the basis of income or assets; 19121

(b) Benefits for any service-connected disability under a 19122



program or law administered by the United States department of 19123  
veterans' affairs or veterans' administration that are not 19124  
means-tested, that have not been distributed to the veteran who is 19125  
the beneficiary of the benefits, and that are in the possession of 19126  
the United States department of veterans' affairs or veterans' 19127  
administration; 19128

(c) Child support received for children who were not born or 19129  
adopted during the marriage at issue; 19130

(d) Amounts paid for mandatory deductions from wages such as 19131  
union dues but not taxes, social security, or retirement in lieu 19132  
of social security; 19133

(e) Nonrecurring or unsustainable income or cash flow items; 19134

(f) Adoption assistance and foster care maintenance payments 19135  
made pursuant to Title IV-E of the "Social Security Act," 94 Stat. 19136  
501, 42 U.S.C.A. 670 (1980), as amended. 19137

(8) "Nonrecurring or unsustainable income or cash flow item" 19138  
means an income or cash flow item the parent receives in any year 19139  
or for any number of years not to exceed three years that the 19140  
parent does not expect to continue to receive on a regular basis. 19141  
"Nonrecurring or unsustainable income or cash flow item" does not 19142  
include a lottery prize award that is not paid in a lump sum or 19143  
any other item of income or cash flow that the parent receives or 19144  
expects to receive for each year for a period of more than three 19145  
years or that the parent receives and invests or otherwise uses to 19146  
produce income or cash flow for a period of more than three years. 19147

(9)(a) "Ordinary and necessary expenses incurred in 19148  
generating gross receipts" means actual cash items expended by the 19149  
parent or the parent's business and includes depreciation expenses 19150  
of business equipment as shown on the books of a business entity. 19151

(b) Except as specifically included in "ordinary and 19152  
necessary expenses incurred in generating gross receipts" by 19153

division (C)(9)(a) of this section, "ordinary and necessary 19154  
expenses incurred in generating gross receipts" does not include 19155  
depreciation expenses and other noncash items that are allowed as 19156  
deductions on any federal tax return of the parent or the parent's 19157  
business. 19158

(10) "Personal earnings" means compensation paid or payable 19159  
for personal services, however denominated, and includes wages, 19160  
salary, commissions, bonuses, draws against commissions, profit 19161  
sharing, vacation pay, or any other compensation. 19162

(11) "Potential income" means both of the following for a 19163  
parent who the court pursuant to a court support order, or a child 19164  
support enforcement agency pursuant to an administrative child 19165  
support order, determines is voluntarily unemployed or voluntarily 19166  
underemployed: 19167

(a) Imputed income that the court or agency determines the 19168  
parent would have earned if fully employed as determined from the 19169  
following criteria: 19170

(i) The parent's prior employment experience; 19171

(ii) The parent's education; 19172

(iii) The parent's physical and mental disabilities, if any; 19173

(iv) The availability of employment in the geographic area in 19174  
which the parent resides; 19175

(v) The prevailing wage and salary levels in the geographic 19176  
area in which the parent resides; 19177

(vi) The parent's special skills and training; 19178

(vii) Whether there is evidence that the parent has the 19179  
ability to earn the imputed income; 19180

(viii) The age and special needs of the child for whom child 19181  
support is being calculated under this section; 19182

(ix) The parent's increased earning capacity because of experience;	19183 19184
(x) Any other relevant factor.	19185
(b) Imputed income from any nonincome-producing assets of a parent, as determined from the local passbook savings rate or another appropriate rate as determined by the court or agency, not to exceed the rate of interest specified in division (A) of section 1343.03 of the Revised Code, if the income is significant.	19186 19187 19188 19189 19190
(12) "Schedule" means the basic child support schedule set forth in section 3119.021 of the Revised Code.	19191 19192
(13) "Self-generated income" means gross receipts received by a parent from self-employment, proprietorship of a business, joint ownership of a partnership or closely held corporation, and rents minus ordinary and necessary expenses incurred by the parent in generating the gross receipts. "Self-generated income" includes expense reimbursements or in-kind payments received by a parent from self-employment, the operation of a business, or rents, including company cars, free housing, reimbursed meals, and other benefits, if the reimbursements are significant and reduce personal living expenses.	19193 19194 19195 19196 19197 19198 19199 19200 19201 19202
(14) "Split parental rights and responsibilities" means a situation in which there is more than one child who is the subject of an allocation of parental rights and responsibilities and each parent is the residential parent and legal custodian of at least one of those children.	19203 19204 19205 19206 19207
(15) "Worksheet" means the applicable worksheet that is used to calculate a parent's child support obligation as set forth in sections 3119.022 and 3119.023 of the Revised Code.	19208 19209 19210
<b>Sec. 3121.01.</b> As used in this chapter:	19211
(A) "Court child support order," "court support order," and	19212

"personal earnings" have the same meanings as in section 3119.01 19213  
of the Revised Code. 19214

(B) "Default" means any failure to pay under a support order 19215  
that is an amount greater than or equal to the amount of support 19216  
payable under the support order for one month. 19217

(C) "Financial institution" means a bank, savings and loan 19218  
association, or credit union, or a regulated investment company or 19219  
mutual fund. 19220

(D) "Income" means any form of monetary payment, including 19221  
personal earnings; workers' compensation payments; unemployment 19222  
compensation benefits to the extent permitted by, and in 19223  
accordance with, sections 3121.07 and 4141.284 of the Revised 19224  
Code, and federal law governing the department of job and family 19225  
services; pensions; annuities; allowances; private or governmental 19226  
retirement benefits; disability or sick pay; insurance proceeds; 19227  
lottery prize awards; federal, state, or local government benefits 19228  
to the extent that the benefits can be withheld or deducted under 19229  
the law governing the benefits; any form of trust fund or 19230  
endowment; lump sum payments, other than a one-time pay supplement 19231  
of less than one hundred fifty dollars paid under section 124.183 19232  
of the Revised Code; and any other payment in money. 19233

(E) "Payor" means any person or entity that pays or 19234  
distributes income to an obligor, including an obligor if the 19235  
obligor is self-employed; an employer; an employer paying an 19236  
obligor's workers' compensation benefits; the public employees 19237  
retirement board; the governing entity of a municipal retirement 19238  
system; the board of trustees of the Ohio police and fire pension 19239  
fund; the state teachers retirement board; the school employees 19240  
retirement board; the state highway patrol retirement board; a 19241  
provider, as defined in section 3305.01 of the Revised Code; the 19242  
bureau of workers' compensation; or any other person or entity 19243  
other than the department of job and family services with respect 19244

to unemployment compensation benefits paid pursuant to Chapter 19245  
4141. of the Revised Code. 19246

**Sec. 3123.952.** A child support enforcement agency may submit 19247  
the name of a delinquent obligor to the office of child support 19248  
for inclusion on a poster only if all of the following apply: 19249

(A) The obligor is subject to a support order and there has 19250  
been an attempt to enforce the order through a public notice, a 19251  
wage withholding order, a lien on property, a financial 19252  
institution deduction order, or other court-ordered procedures. 19253

(B) The department of job and family services reviewed the 19254  
obligor's records and confirms the child support enforcement 19255  
agency's finding that the obligor's name and photograph may be 19256  
submitted to be displayed on a poster. 19257

(C) The agency does not know or is unable to verify the 19258  
obligor's whereabouts. 19259

(D) The obligor is not a participant in Ohio works first or 19260  
the prevention, retention, and contingency program or a recipient 19261  
of disability financial assistance, supplemental security income, 19262  
or food stamps. 19263

(E) The child support enforcement agency does not have 19264  
evidence that the obligor has filed for protection under the 19265  
federal Bankruptcy Code, 11 U.S.C.A. 101, as amended. 19266

(F) The obligee gave written authorization to the agency to 19267  
display the obligor on a poster. 19268

(G) A legal representative of the agency and a child support 19269  
enforcement administrator reviewed the case. 19270

(H) The agency is able to submit to the department a 19271  
description and photograph of the obligor, a statement of the 19272  
possible locations of the obligor, and any other information 19273  
required by the department. 19274

**Sec. 3301.0714.** (A) The state board of education shall adopt 19275  
rules for a statewide education management information system. The 19276  
rules shall require the state board to establish guidelines for 19277  
the establishment and maintenance of the system in accordance with 19278  
this section and the rules adopted under this section. The 19279  
guidelines shall include: 19280

(1) Standards identifying and defining the types of data in 19281  
the system in accordance with divisions (B) and (C) of this 19282  
section; 19283

(2) Procedures for annually collecting and reporting the data 19284  
to the state board in accordance with division (D) of this 19285  
section; 19286

(3) Procedures for annually compiling the data in accordance 19287  
with division (G) of this section; 19288

(4) Procedures for annually reporting the data to the public 19289  
in accordance with division (H) of this section. 19290

(B) The guidelines adopted under this section shall require 19291  
the data maintained in the education management information system 19292  
to include at least the following: 19293

(1) Student participation and performance data, for each 19294  
grade in each school district as a whole and for each grade in 19295  
each school building in each school district, that includes: 19296

(a) The numbers of students receiving each category of 19297  
instructional service offered by the school district, such as 19298  
regular education instruction, vocational education instruction, 19299  
specialized instruction programs or enrichment instruction that is 19300  
part of the educational curriculum, instruction for gifted 19301  
students, instruction for handicapped students, and remedial 19302  
instruction. The guidelines shall require instructional services 19303  
under this division to be divided into discrete categories if an 19304

instructional service is limited to a specific subject, a specific 19305  
type of student, or both, such as regular instructional services 19306  
in mathematics, remedial reading instructional services, 19307  
instructional services specifically for students gifted in 19308  
mathematics or some other subject area, or instructional services 19309  
for students with a specific type of handicap. The categories of 19310  
instructional services required by the guidelines under this 19311  
division shall be the same as the categories of instructional 19312  
services used in determining cost units pursuant to division 19313  
(C)(3) of this section. 19314

(b) The numbers of students receiving support or 19315  
extracurricular services for each of the support services or 19316  
extracurricular programs offered by the school district, such as 19317  
counseling services, health services, and extracurricular sports 19318  
and fine arts programs. The categories of services required by the 19319  
guidelines under this division shall be the same as the categories 19320  
of services used in determining cost units pursuant to division 19321  
(C)(4)(a) of this section. 19322

(c) Average student grades in each subject in grades nine 19323  
through twelve; 19324

(d) Academic achievement levels as assessed by the testing of 19325  
student achievement under sections 3301.0710 and 3301.0711 of the 19326  
Revised Code; 19327

(e) The number of students designated as having a 19328  
handicapping condition pursuant to division (C)(1) of section 19329  
3301.0711 of the Revised Code; 19330

(f) The numbers of students reported to the state board 19331  
pursuant to division (C)(2) of section 3301.0711 of the Revised 19332  
Code; 19333

(g) Attendance rates and the average daily attendance for the 19334  
year. For purposes of this division, a student shall be counted as 19335

present for any field trip that is approved by the school administration.	19336 19337
(h) Expulsion rates;	19338
(i) Suspension rates;	19339
(j) The percentage of students receiving corporal punishment;	19340
(k) Dropout rates;	19341
(l) Rates of retention in grade;	19342
(m) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board of education rules;	19343 19344 19345
(n) Graduation rates, to be calculated in a manner specified by the department of education that reflects the rate at which students who were in the ninth grade three years prior to the current year complete school and that is consistent with nationally accepted reporting requirements;	19346 19347 19348 19349 19350
(o) Results of diagnostic assessments administered to kindergarten students as required under section 3301.0715 of the Revised Code to permit a comparison of the academic readiness of kindergarten students. However, no district shall be required to report to the department the results of any diagnostic assessment administered to a kindergarten student if the parent of that student requests the district not to report those results.	19351 19352 19353 19354 19355 19356 19357
(2) Personnel and classroom enrollment data for each school district, including:	19358 19359
(a) The total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category of instructional service, instructional support service, and administrative support service used pursuant to division (C)(3) of this section. The guidelines adopted under this section shall	19360 19361 19362 19363 19364 19365



require these categories of data to be maintained for the school 19366  
district as a whole and, wherever applicable, for each grade in 19367  
the school district as a whole, for each school building as a 19368  
whole, and for each grade in each school building. 19369

(b) The total number of employees and the number of full-time 19370  
equivalent employees providing each category of service used 19371  
pursuant to divisions (C)(4)(a) and (b) of this section, and the 19372  
total numbers of licensed employees and nonlicensed employees and 19373  
the numbers of full-time equivalent licensed employees and 19374  
nonlicensed employees providing each category used pursuant to 19375  
division (C)(4)(c) of this section. The guidelines adopted under 19376  
this section shall require these categories of data to be 19377  
maintained for the school district as a whole and, wherever 19378  
applicable, for each grade in the school district as a whole, for 19379  
each school building as a whole, and for each grade in each school 19380  
building. 19381

(c) The total number of regular classroom teachers teaching 19382  
classes of regular education and the average number of pupils 19383  
enrolled in each such class, in each of grades kindergarten 19384  
through five in the district as a whole and in each school 19385  
building in the school district. 19386

(3)(a) Student demographic data for each school district, 19387  
including information regarding the gender ratio of the school 19388  
district's pupils, the racial make-up of the school district's 19389  
pupils, and an appropriate measure of the number of the school 19390  
district's pupils who reside in economically disadvantaged 19391  
households. The demographic data shall be collected in a manner to 19392  
allow correlation with data collected under division (B)(1) of 19393  
this section. Categories for data collected pursuant to division 19394  
(B)(3) of this section shall conform, where appropriate, to 19395  
standard practices of agencies of the federal government. 19396

(b) With respect to each student entering kindergarten, 19397

whether the student previously participated in a public preschool 19398  
program, a private preschool program, or a head start program, and 19399  
the number of years the student participated in each of these 19400  
programs. 19401

(C) The education management information system shall include 19402  
cost accounting data for each district as a whole and for each 19403  
school building in each school district. The guidelines adopted 19404  
under this section shall require the cost data for each school 19405  
district to be maintained in a system of mutually exclusive cost 19406  
units and shall require all of the costs of each school district 19407  
to be divided among the cost units. The guidelines shall require 19408  
the system of mutually exclusive cost units to include at least 19409  
the following: 19410

(1) Administrative costs for the school district as a whole. 19411  
The guidelines shall require the cost units under this division 19412  
(C)(1) to be designed so that each of them may be compiled and 19413  
reported in terms of average expenditure per pupil in formula ADM 19414  
in the school district, as determined pursuant to section 3317.03 19415  
of the Revised Code. 19416

(2) Administrative costs for each school building in the 19417  
school district. The guidelines shall require the cost units under 19418  
this division (C)(2) to be designed so that each of them may be 19419  
compiled and reported in terms of average expenditure per 19420  
full-time equivalent pupil receiving instructional or support 19421  
services in each building. 19422

(3) Instructional services costs for each category of 19423  
instructional service provided directly to students and required 19424  
by guidelines adopted pursuant to division (B)(1)(a) of this 19425  
section. The guidelines shall require the cost units under 19426  
division (C)(3) of this section to be designed so that each of 19427  
them may be compiled and reported in terms of average expenditure 19428  
per pupil receiving the service in the school district as a whole 19429

and average expenditure per pupil receiving the service in each 19430  
building in the school district and in terms of a total cost for 19431  
each category of service and, as a breakdown of the total cost, a 19432  
cost for each of the following components: 19433

(a) The cost of each instructional services category required 19434  
by guidelines adopted under division (B)(1)(a) of this section 19435  
that is provided directly to students by a classroom teacher; 19436

(b) The cost of the instructional support services, such as 19437  
services provided by a speech-language pathologist, classroom 19438  
aide, multimedia aide, or librarian, provided directly to students 19439  
in conjunction with each instructional services category; 19440

(c) The cost of the administrative support services related 19441  
to each instructional services category, such as the cost of 19442  
personnel that develop the curriculum for the instructional 19443  
services category and the cost of personnel supervising or 19444  
coordinating the delivery of the instructional services category. 19445

(4) Support or extracurricular services costs for each 19446  
category of service directly provided to students and required by 19447  
guidelines adopted pursuant to division (B)(1)(b) of this section. 19448  
The guidelines shall require the cost units under division (C)(4) 19449  
of this section to be designed so that each of them may be 19450  
compiled and reported in terms of average expenditure per pupil 19451  
receiving the service in the school district as a whole and 19452  
average expenditure per pupil receiving the service in each 19453  
building in the school district and in terms of a total cost for 19454  
each category of service and, as a breakdown of the total cost, a 19455  
cost for each of the following components: 19456

(a) The cost of each support or extracurricular services 19457  
category required by guidelines adopted under division (B)(1)(b) 19458  
of this section that is provided directly to students by a 19459  
licensed employee, such as services provided by a guidance 19460

counselor or any services provided by a licensed employee under a supplemental contract; 19461  
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(b) The cost of each such services category provided directly to students by a nonlicensed employee, such as janitorial services, cafeteria services, or services of a sports trainer; 19463  
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(c) The cost of the administrative services related to each services category in division (C)(4)(a) or (b) of this section, such as the cost of any licensed or nonlicensed employees that develop, supervise, coordinate, or otherwise are involved in administering or aiding the delivery of each services category. 19466  
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(D)(1) The guidelines adopted under this section shall require school districts to collect information about individual students, staff members, or both in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines may also require school districts to report information about individual staff members in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines shall not authorize school districts to request social security numbers of individual students. The guidelines shall prohibit the reporting under this section of a student's name, address, and social security number to the state board of education or the department of education. The guidelines shall also prohibit the reporting under this section of any personally identifiable information about any student, except for the purpose of assigning the data verification code required by division (D)(2) of this section, to any other person unless such person is employed by the school district or the data acquisition site operated under section 3301.075 of the Revised Code and is authorized by the district or acquisition site to have access to such information. The guidelines may require school districts to provide the social 19471  
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security numbers of individual staff members. 19493

(2) The guidelines shall provide for each school district or 19494  
community school to assign a data verification code that is unique 19495  
on a statewide basis over time to each student whose initial Ohio 19496  
enrollment is in that district or school and to report all 19497  
required individual student data for that student utilizing such 19498  
code. The guidelines shall also provide for assigning data 19499  
verification codes to all students enrolled in districts or 19500  
community schools on the effective date of the guidelines 19501  
established under this section. 19502

Individual student data shall be reported to the department 19503  
through the data acquisition sites utilizing the code but at no 19504  
time shall the state board or the department have access to 19505  
information that would enable any data verification code to be 19506  
matched to personally identifiable student data. 19507

Each school district shall ensure that the data verification 19508  
code is included in the student's records reported to any 19509  
subsequent school district or community school in which the 19510  
student enrolls and shall remove all references to the code in any 19511  
records retained in the district or school that pertain to any 19512  
student no longer enrolled. Any such subsequent district or school 19513  
shall utilize the same identifier in its reporting of data under 19514  
this section. 19515

(E) The guidelines adopted under this section may require 19516  
school districts to collect and report data, information, or 19517  
reports other than that described in divisions (A), (B), and (C) 19518  
of this section for the purpose of complying with other reporting 19519  
requirements established in the Revised Code. The other data, 19520  
information, or reports may be maintained in the education 19521  
management information system but are not required to be compiled 19522  
as part of the profile formats required under division (G) of this 19523  
section or the annual statewide report required under division (H) 19524

of this section. 19525

(F) Beginning with the school year that begins July 1, 1991, 19526  
the board of education of each school district shall annually 19527  
collect and report to the state board, in accordance with the 19528  
guidelines established by the board, the data required pursuant to 19529  
this section. A school district may collect and report these data 19530  
notwithstanding section 2151.358 or 3319.321 of the Revised Code. 19531

(G) The state board shall, in accordance with the procedures 19532  
it adopts, annually compile the data reported by each school 19533  
district pursuant to division (D) of this section. The state board 19534  
shall design formats for profiling each school district as a whole 19535  
and each school building within each district and shall compile 19536  
the data in accordance with these formats. These profile formats 19537  
shall: 19538

(1) Include all of the data gathered under this section in a 19539  
manner that facilitates comparison among school districts and 19540  
among school buildings within each school district; 19541

(2) Present the data on academic achievement levels as 19542  
assessed by the testing of student achievement maintained pursuant 19543  
to division (B)(1)(e) of this section so that the academic 19544  
achievement levels of students who are excused from taking any 19545  
such test pursuant to division (C)(1) of section 3301.0711 of the 19546  
Revised Code are distinguished from the academic achievement 19547  
levels of students who are not so excused. 19548

(H)(1) The state board shall, in accordance with the 19549  
procedures it adopts, annually prepare a statewide report for all 19550  
school districts and the general public that includes the profile 19551  
of each of the school districts developed pursuant to division (G) 19552  
of this section. Copies of the report shall be sent to each school 19553  
district. 19554

(2) The state board shall, in accordance with the procedures 19555

it adopts, annually prepare an individual report for each school 19556  
district and the general public that includes the profiles of each 19557  
of the school buildings in that school district developed pursuant 19558  
to division (G) of this section. Copies of the report shall be 19559  
sent to the superintendent of the district and to each member of 19560  
the district board of education. 19561

(3) Copies of the reports received from the state board under 19562  
divisions (H)(1) and (2) of this section shall be made available 19563  
to the general public at each school district's offices. Each 19564  
district board of education shall make copies of each report 19565  
available to any person upon request and payment of a reasonable 19566  
fee for the cost of reproducing the report. The board shall 19567  
annually publish in a newspaper of general circulation in the 19568  
school district, at least twice during the two weeks prior to the 19569  
week in which the reports will first be available, a notice 19570  
containing the address where the reports are available and the 19571  
date on which the reports will be available. 19572

(I) Any data that is collected or maintained pursuant to this 19573  
section and that identifies an individual pupil is not a public 19574  
record for the purposes of section 149.43 of the Revised Code. 19575

(J) As used in this section: 19576

(1) "School district" means any city, local, exempted 19577  
village, or joint vocational school district. 19578

(2) "Cost" means any expenditure for operating expenses made 19579  
by a school district excluding any expenditures for debt 19580  
retirement except for payments made to any commercial lending 19581  
institution for any loan approved pursuant to section 3313.483 of 19582  
the Revised Code. 19583

(K) Any person who removes data from the information system 19584  
established under this section for the purpose of releasing it to 19585  
any person not entitled under law to have access to such 19586

information is subject to section 2913.42 of the Revised Code 19587  
prohibiting tampering with data. 19588

(L) Any time the department of education determines that a 19589  
school district has taken any of the actions described under 19590  
division (L)(1), (2), or (3) of this section, it shall make a 19591  
report of the actions of the district, send a copy of the report 19592  
to the superintendent of such school district, and maintain a copy 19593  
of the report in its files: 19594

(1) The school district fails to meet any deadline 19595  
established pursuant to this section for the reporting of any data 19596  
to the education management information system; 19597

(2) The school district fails to meet any deadline 19598  
established pursuant to this section for the correction of any 19599  
data reported to the education management information system; 19600

(3) The school district reports data to the education 19601  
management information system in a condition, as determined by the 19602  
department, that indicates that the district did not make a good 19603  
faith effort in reporting the data to the system. 19604

Any report made under this division shall include 19605  
recommendations for corrective action by the school district. 19606

Upon making a report for the first time in a fiscal year, the 19607  
department shall withhold ten per cent of the total amount due 19608  
during that fiscal year under Chapter 3317. of the Revised Code to 19609  
the school district to which the report applies. Upon making a 19610  
second report in a fiscal year, the department shall withhold an 19611  
additional twenty per cent of such total amount due during that 19612  
fiscal year to the school district to which the report applies. 19613  
The department shall not release such funds unless it determines 19614  
that the district has taken corrective action. However, no such 19615  
release of funds shall occur if the district fails to take 19616  
corrective action within forty-five days of the date upon which 19617



the report was made by the department. 19618

(M) ~~The department of education, after consultation with the~~ 19619  
~~Ohio education computer network, may provide at no cost to school~~ 19620  
~~districts uniform computer software for use in reporting data to~~ 19621  
~~the education management information system, provided that no~~ 19622  
~~school district shall be required to utilize such software to~~ 19623  
~~report data to the education management information system if such~~ 19624  
~~district is so reporting data in an accurate, complete, and timely~~ 19625  
~~manner in a format compatible with that required by the education~~ 19626  
~~management information system~~ No data acquisition site or school 19627  
district shall acquire, change, or update its student 19628  
administration software package to manage and report data required 19629  
to be reported to the department unless it converts to the student 19630  
management record system prescribed by the department. 19631

(N) The state board of education, in accordance with sections 19632  
3319.31 and 3319.311 of the Revised Code, may suspend or revoke a 19633  
license as defined under division (A) of section 3319.31 of the 19634  
Revised Code that has been issued to any school district employee 19635  
found to have willfully reported erroneous, inaccurate, or 19636  
incomplete data to the education management information system. 19637

(O) No person shall release or maintain any information about 19638  
any student in violation of this section. Whoever violates this 19639  
division is guilty of a misdemeanor of the fourth degree. 19640

(P) The department shall disaggregate the data collected 19641  
under division (B)(1)(o) of this section according to the race and 19642  
socioeconomic status of the students assessed. No data collected 19643  
under that division shall be included on the report cards required 19644  
by section 3302.03 of the Revised Code. 19645

(Q) If the department cannot compile any of the information 19646  
required by division (D)(5) of section 3302.03 of the Revised Code 19647  
based upon the data collected under this section, the department 19648

shall develop a plan and a reasonable timeline for the collection 19649  
of any data necessary to comply with that division. 19650

Sec. 3301.31. As used in this section and sections 3301.32 to 19651  
3301.38 of the Revised Code: 19652

(A) "Eligible individual" means an individual eligible for 19653  
Title IV-A services. 19654

(B) "Head start agency" means any or all of the following: 19655

(1) An entity in this state that has been approved to be an 19656  
agency for purposes of the "Head Start Act," 95 Stat. 489 (1981), 19657  
42 U.S.C. 9831, as amended; 19658

(2) A Title IV-A head start agency; 19659

(3) A Title IV-A head start plus agency. 19660

(C) "Head start program" has the same meaning as in section 19661  
5104.01 of the Revised Code. 19662

(D) "Title IV-A services" means benefits and services that 19663  
are allowable under Title IV-A of the "Social Security Act," as 19664  
specified in 42 U.S.C.A 604(a), except that they shall not be 19665  
benefits and services included in the term "assistance" as defined 19666  
in 45 C.F.R. 260.31(a) and shall be benefits and services that are 19667  
excluded from the definition of the term "assistance" under 45 19668  
C.F.R. 260.31(b). 19669

(E) "Title IV-A head start agency" means an agency receiving 19670  
funds to operate a head start program as prescribed in section 19671  
3301.34 of the Revised Code. 19672

(F) "Title IV-A head start plus agency" means an agency 19673  
receiving funds to operate a head start program as prescribed in 19674  
section 3301.35 of the Revised Code. 19675

Sec. 3301.33. (A) There is hereby established the Title IV-A 19676

head start program to provide head start program services to 19677  
eligible individuals. 19678

(B) In accordance with the interagency agreement described in 19679  
division (C) of this section, there is hereby established the 19680  
Title IV-A head start plus program to provide year-long head start 19681  
program services and child care services to eligible individuals. 19682

(C) The programs established under divisions (A) and (B) of 19683  
this section shall be administered by the department of education 19684  
in accordance with an interagency agreement entered into with the 19685  
department of job and family services under section 5101.801 of 19686  
the Revised Code. This interagency agreement shall establish the 19687  
implementation date of the Title IV-A head start plus program, 19688  
which is July 1, 2004. The programs shall provide Title IV-A 19689  
services to eligible individuals who meet eligibility requirements 19690  
established in rules and administrative orders adopted by the 19691  
department of job and family services under Chapter 5104. of the 19692  
Revised Code. The department of job and family services and the 19693  
department of education jointly shall adopt policies and 19694  
procedures establishing program requirements for eligibility, 19695  
services, program administration, fiscal accountability, and other 19696  
criteria necessary to comply with the provisions of Title IV-A of 19697  
the "Social Security Act," 110 Stat. 2113, 42 U.S.C. 601 (1996), 19698  
as amended. 19699

The department of education shall be responsible for 19700  
approving all Title IV-A head start agencies and Title IV-A head 19701  
start plus agencies for provision of services under the programs 19702  
established under this section. An agency that is not approved by 19703  
the department shall not be reimbursed for the cost of providing 19704  
services under the programs. 19705

**Sec. 3301.34.** In administering the Title IV-A head start 19706  
program established under division (A) of section 3301.33 of the 19707

Revised Code, the department of education shall enter into a 19708  
contract with each Title IV-A head start agency establishing the 19709  
terms and conditions applicable to the provision of Title IV-A 19710  
services for eligible individuals. The contracts shall specify the 19711  
respective duties of the Title IV-A head start agencies and the 19712  
department of education, reporting requirements, eligibility 19713  
requirements, reimbursement methodology, audit requirements, and 19714  
other provisions determined necessary. The department of education 19715  
shall reimburse the Title IV-A head start agencies for Title IV-A 19716  
services provided to individuals determined eligible for Title 19717  
IV-A services by the county department of job and family services 19718  
in accordance with the terms of the contract, policies and 19719  
procedures adopted by the department of education and the 19720  
department of job and family services under section 3301.33 of the 19721  
Revised Code, and the interagency agreement entered into by the 19722  
departments. 19723

The department of education shall ensure that all 19724  
reimbursements paid to a Title IV-A head start agency are only for 19725  
Title IV-A services. 19726

The department of education shall ensure that all 19727  
reimbursements paid to a Title IV-A head start agency are for only 19728  
those individuals for Title IV-A services by the appropriate 19729  
county department of job and family services, as provided for in 19730  
section 3301.36 of the Revised Code. 19731

**Sec. 3301.35.** (A) In administering the Title IV-A head start 19732  
plus program established under division (B) of section 3301.33, 19733  
the department of education shall enter into a contract with each 19734  
Title IV-A head start plus agency under which the department shall 19735  
reimburse the agency for allowable expenses in connection to 19736  
services provided to eligible individuals. 19737

(B) Each county department of job and family services shall 19738

assist the department of education in administering the program 19739  
within its respective county in accordance with requirements 19740  
established by the state department of job and family services 19741  
under section 5101.801 of the Revised Code. The county department 19742  
shall ensure that all reimbursements paid to a Title IV-A head 19743  
start plus agency are for only Title IV-A services. 19744

The administration of the Title IV-A head start plus program 19745  
by the county department shall include all of the following: 19746

(1) Determining eligibility of individuals and establishing 19747  
co-payment requirements in accordance with rules adopted by the 19748  
state department of job and family services; 19749

(2) Ensuring that any invoices from a Title IV-A head start 19750  
plus agency comply with requirements of Title IV-A of the "Social 19751  
Security Act," 110 Stat. 2113, 42 U.S.C. 601 (1996), as amended, 19752  
including eligibility of individuals, reporting requirements, 19753  
allowable benefits and services, use of funds, and audit 19754  
requirements, as specified in state and federal laws and 19755  
regulations, United States office of management and budget 19756  
circulars, and the Title IV-A state plan; 19757

(3) Monitoring each Title IV-A head start plus agency that 19758  
receives Title IV-A funds. The county department is responsible 19759  
for assuring that all Title IV-A funds are used solely for 19760  
purposes allowable under federal regulations, section 5101.801 of 19761  
the Revised Code, and the Title IV-A state plan and shall take 19762  
prompt action to recover funds that are not expended accordingly. 19763

(C) The department of education shall enter into contracts 19764  
with only those agencies that have been approved by the department 19765  
of education as a Title IV-A head start plus agency and that have 19766  
been licensed in accordance with section 3301.37 of the Revised 19767  
Code. Each contract entered into under this division shall specify 19768  
all of the following: 19769

<u>(1) Requirements applicable to the allowable use of and</u>	19770
<u>accountability for Title IV-A funds;</u>	19771
<u>(2) Requirements for access, inspection, and examination of</u>	19772
<u>the agency's financial and program records by the county</u>	19773
<u>department, the state department of job and family services, the</u>	19774
<u>department of education, the auditor of state, and any other state</u>	19775
<u>or federal agency with authority to inspect and examine such</u>	19776
<u>records;</u>	19777
<u>(3) Applicable audit requirements applicable to funds</u>	19778
<u>received under the contract;</u>	19779
<u>(4) Reporting requirements by and for the county department,</u>	19780
<u>the state department of job and family services, and the</u>	19781
<u>department of education;</u>	19782
<u>(5) Provisions for the department of education to suspend,</u>	19783
<u>modify, or terminate the contract if the department of education</u>	19784
<u>suspends or removes the agency from the list of approved Title</u>	19785
<u>IV-A head start plus agencies or if the state department of job</u>	19786
<u>and family services denies or revokes a license for the agency.</u>	19787
<b><u>Sec. 3301.36.</u></b> Each county department of job and family	19788
services shall determine eligibility for Title IV-A services for	19789
individuals seeking Title IV-A services from a Title IV-A head	19790
start agency or Title IV-A head start plus agency.	19791
<b><u>Sec. 3301.37.</u></b> (A) Each entity operating a head start program	19792
shall be licensed or certified by the department of job and family	19793
services in accordance with Chapter 5104. of the Revised Code.	19794
(B) Notwithstanding division (A) of this section, any current	19795
license issued under section 3301.58 of the Revised Code by the	19796
department of education to an entity operating a head start	19797
program prior to the effective date of this section is hereby	19798

deemed to be a license issued by the department of job and family services under Chapter 5104. of the Revised Code. The expiration date of the license shall be the earlier of the expiration date specified in the license as issued under section 3301.58 of the Revised Code or September 1, 2005. In order to continue operation of its head start program after that expiration date, the entity shall obtain a license as prescribed in division (A) of this section. 19799  
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Sec. 3301.38. (A) The department of education shall adopt policies and procedures for the approval, suspension, and removal of Title IV-A head start and Title IV-A head start plus agencies from the approved list of providers. 19807  
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(B) If a head start program that received state funding prior to July 1, 2001, waives its right to state funding or has its state funding eliminated for not meeting financial standards or program performance standards, the grantee or delegates shall transfer control of title to property, equipment, and remaining supplies purchased with state funds to the department along with any reports prescribed by the department. 19811  
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(C) Title IV-A head start awards shall be distributed on a per-pupil basis, which the department may adjust so that the per pupil amount multiplied by the number of eligible children enrolled and receiving services, as defined by the department of education, reported on the first day of December or the first business day following that date equals the amount allocated. 19818  
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(D) The department of education shall prescribe the assessment instrument and determine target levels for critical performance indicators for the purpose of assessing Title IV-A head start and Title IV-A head start plus agencies. Onsite reviews and follow-up visits shall be based on progress in meeting the prescribed target levels. 19824  
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(E) The department of education shall require Title IV-A head start and Title IV-A head start plus agencies to: 19830  
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(1) Address federal head start education and assessment performance standards, as required by 45 C.F.R. 1304.20 to 1304.41 and the Ohio department of education pre-kindergarten math and literacy content standards; 19832  
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(2) Comply with the department of education prescribed assessment requirements that are aligned with the assessment system for kindergarten through twelfth grade; 19836  
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(3) Comply with federal head start performance standards for comprehensive services in health, nutrition, mental health, family partnership, and social services as required by 45 C.F.R. 1304.20 to 1304.41; 19839  
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(4) Require teachers to attend a minimum of twenty hours of professional development as prescribed by the department of education regarding the implementation of content standards and assessment; and 19843  
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(5) Document and report child progress using research-based indicators as prescribed by the department. 19847  
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(F) Costs for developing and administering a Title IV-A head start or Title IV-A head start plus program may not exceed fifteen percent of the total approved costs of the program. 19849  
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(G) In consultation with the department of job and family services, the department of education shall establish program requirements for Title IV-A head start and Title IV-A head start plus agencies. 19852  
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(H) The department of education may examine the financial and program records of Title IV-A head start agencies and Title IV-A head start plus agencies. The department of education shall monitor these agencies to ensure that all Title IV-A funds are 19856  
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used solely for purposes allowable under federal regulations, 19860  
section 5101.801 of the Revised Code, and the Title IV-A state 19861  
plan and shall take prompt action to recover funds that are not 19862  
expended accordingly. The department of job and family services 19863  
may examine the financial records of Title IV-A head start 19864  
agencies and Title IV-A head start plus agencies. 19865

(I)(1) A Title IV-A head start agency or Title IV-A head 19866  
start plus agency shall propose and implement a corrective action 19867  
plan that has been approved by the department of education when 19868  
the department determines either of the following: 19869

(a) The financial practices of the Title IV-A head start 19870  
agency are not in accordance with standard accounting principles 19871  
and federal requirements or do not meet financial standards 19872  
required in the contract as specified under division (C) of 19873  
section 3301.35 of the Revised Code; 19874

(b) The Title IV-A head start or Title IV-A head start plus 19875  
agency fails to substantially meet the head start performance 19876  
standards or exhibits below average performance as measured 19877  
against the performance indicators. 19878

(2) The approved corrective action plan shall be signed by 19879  
the appropriate official and agency governance body. 19880

(3) The corrective action plan shall include a schedule of 19881  
monitoring by the department of education. This monitoring may 19882  
include monthly reports, inspections, a timeline for correction of 19883  
deficiencies, and technical assistance to be provided by the 19884  
department or obtained by the Title IV-A head start agency or 19885  
Title IV-A head start plus agency. The department may withhold 19886  
funding to a Title IV-A head start agency or a Title IV-A head 19887  
start plus agency. 19888

(4) If a Title IV-A head start agency or a Title IV-A head 19889  
start plus agency fails to satisfactorily complete a corrective 19890

action, the department may suspend or terminate part or all of the 19891  
funding to the agency and may remove the agency from the approved 19892  
list. 19893

(J) The department shall provide technical assistance to 19894  
Title IV-A head start agencies in administering Title IV-A head 19895  
start programs and to Title IV-A head start plus agencies and 19896  
child care partners in administering head start plus programs. 19897

**Sec. ~~3301.33~~ 3301.40.** (A) As used in this section, "adult 19898  
education" has the meaning as established under the "adult 19899  
education act," 102 Stat. 302 (1988), 20 U.S.C. 1201a(2), as 19900  
amended. 19901

(B) Beginning July 1, 1996, the department of education may 19902  
distribute state funds to organizations that qualify for federal 19903  
funds under the "Adult Education Act," 102 Stat. 302 (1988), 20 19904  
1201 to 1213d, as amended. The funds shall be used by qualifying 19905  
organizations to provide adult education services. State funds 19906  
distributed pursuant to this section shall be distributed in 19907  
accordance with the rules adopted by the state board of education 19908  
pursuant to this section. 19909

Each organization that receives funds under this section 19910  
shall file program performance reports with the department. The 19911  
reports shall be filed at times required by state board of 19912  
education rule and contain assessments of individual students as 19913  
they enter, progress through, and exit the adult education 19914  
program; records regarding individual student program 19915  
participation time; reports of individual student retention rates; 19916  
and any other information required by rule. 19917

(C) The state board of education shall adopt rules for the 19918  
distribution of funds under this section. The rules shall include 19919  
the following: 19920

(1) Requirements for program performance reports.	19921
(2) Indicators of adult education program quality, including indicators of learner achievement, program environment, program planning, curriculum and instruction, staff development, support services, and recruitment and retention.	19922 19923 19924 19925
(3) A formula for the distribution of funds under this section. The formula shall include as a factor an organization's quantifiable success in meeting the indicators of program quality established pursuant to division (C)(2) of this section.	19926 19927 19928 19929
(4) Standards and procedures for reducing or discontinuing funding to organizations that fail to meet the requirements of this section.	19930 19931 19932
(5) Any other requirements or standards considered appropriate by the board.	19933 19934
<b>Sec. 3301.52.</b> As used in sections 3301.52 to 3301.59 of the Revised Code:	19935 19936
(A) "Preschool program" means either of the following:	19937
(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, <del>a head start grantee, or a head start delegate agency.</del>	19938 19939 19940 19941
(2) A child day-care program for preschool children age three or older that is operated by a county MR/DD board.	19942 19943
(B) "Preschool child" or "child" means a child who has not entered kindergarten and is not of compulsory school age.	19944 19945
(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.	19946 19947 19948
(D) "Superintendent" means the superintendent of a school	19949

district or the chief administrative officer of an eligible nonpublic school.	19950 19951
(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.	19952 19953 19954
(F) "Preschool staff member" means a preschool employee whose primary responsibility is care, teaching, or supervision of preschool children.	19955 19956 19957
(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.	19958 19959 19960 19961
(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.	19962 19963 19964 19965 19966
(I) "County MR/DD board" means a county board of mental retardation and developmental disabilities.	19967 19968
(J) "School child program" means a child day-care program for only school children that is operated by a school district board of education, county MR/DD board, or eligible nonpublic school.	19969 19970 19971
(K) "School child" and "child day-care" have the same meanings as in section 5104.01 of the Revised Code.	19972 19973
(L) "School child program staff member" means an employee whose primary responsibility is the care, teaching, or supervision of children in a school child program.	19974 19975 19976
<del>(M) "Head start" means a program operated in accordance with subchapter II of the "Community Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C. 9831, and amendments thereto.</del>	19977 19978 19979

Sec. 3301.53. (A) Not later than July 1, 1988, the state 19980  
board of education, in consultation with the director of job and 19981  
family services, shall formulate and prescribe by rule adopted 19982  
under Chapter 119. of the Revised Code minimum standards to be 19983  
applied to preschool programs operated by school district boards 19984  
of education, county MR/DD boards, or eligible nonpublic schools, 19985  
~~head start grantees, and head start delegate agencies.~~ The rules 19986  
shall include the following: 19987

(1) Standards ensuring that the preschool program is located 19988  
in a safe and convenient facility that accommodates the enrollment 19989  
of the program, is of the quality to support the growth and 19990  
development of the children according to the program objectives, 19991  
and meets the requirements of section 3301.55 of the Revised Code; 19992

(2) Standards ensuring that supervision, discipline, and 19993  
programs will be administered according to established objectives 19994  
and procedures; 19995

(3) Standards ensuring that preschool staff members and 19996  
nonteaching employees are recruited, employed, assigned, 19997  
evaluated, and provided inservice education without discrimination 19998  
on the basis of age, color, national origin, race, or sex; and 19999  
that preschool staff members and nonteaching employees are 20000  
assigned responsibilities in accordance with written position 20001  
descriptions commensurate with their training and experience; 20002

(4) A requirement that boards of education intending to 20003  
establish a preschool program on or after March 17, 1989, 20004  
demonstrate a need for a preschool program that is not being met 20005  
by any existing program providing child day-care, prior to 20006  
establishing the program; 20007

(5) Requirements that children participating in preschool 20008  
programs have been immunized to the extent considered appropriate 20009

by the state board to prevent the spread of communicable disease;	20010
(6) Requirements that the parents of preschool children	20011
complete the emergency medical authorization form specified in	20012
section 3313.712 of the Revised Code.	20013
(B) The state board of education in consultation with the	20014
director of job and family services shall ensure that the rules	20015
adopted by the state board under sections 3301.52 to 3301.58 of	20016
the Revised Code are consistent with and meet or exceed the	20017
requirements of Chapter 5104. of the Revised Code with regard to	20018
child day-care centers. The state board and the director of job	20019
and family services shall review all such rules at least once	20020
every five years.	20021
(C) On or before January 1, 1992, the state board of	20022
education, in consultation with the director of job and family	20023
services, shall adopt rules for school child programs that are	20024
consistent with and meet or exceed the requirements of the rules	20025
adopted for school child day-care centers under Chapter 5104. of	20026
the Revised Code.	20027
<b>Sec. 3301.54.</b> (A)(1) Each preschool program shall be directed	20028
and supervised by a director, a head teacher, an elementary	20029
principal, or a site administrator who is on site and responsible	20030
for supervision of the program. Except as otherwise provided in	20031
division (A)(2), (3), or (4) of this section, this person shall	20032
hold a valid educator license designated as appropriate for	20033
teaching or being an administrator in a preschool setting issued	20034
pursuant to section 3319.22 of the Revised Code and have completed	20035
at least four courses in child development or early childhood	20036
education from an accredited college, university, or technical	20037
college.	20038
(2) If the person was employed prior to July 1, 1988, by a	20039
school district board of education or an eligible nonpublic school	20040

to direct a preschool program, the person shall be considered to 20041  
meet the requirements of this section if the person holds a valid 20042  
kindergarten-primary certificate described under former division 20043  
(A) of section 3319.22 of the Revised Code as it existed on 20044  
January 1, 1996. 20045

(3) If the person is employed to direct a preschool program 20046  
operated by an eligible, nontax-supported, nonpublic school, the 20047  
person shall be considered to meet the requirements of this 20048  
section if the person holds a valid teaching certificate issued in 20049  
accordance with section 3301.071 of the Revised Code. 20050

~~(4) If the person is a site administrator for a head start 20051  
grantee or head start delegate agency, the person shall be 20052  
considered to meet the requirements of this section if the person 20053  
provides evidence that the person has attained at least a high 20054  
school diploma or certification of high school equivalency issued 20055  
by the state board of education or a comparable agency of another 20056  
state, and that the person meets at least one of the following 20057  
requirements: 20058~~

~~(a) Two years of experience working as a child care staff 20059  
member in a child day care center or preschool program and at 20060  
least four courses in child development or early childhood 20061  
education from an accredited college, university, or technical 20062  
college, except that a person who has two years of experience 20063  
working as a child care staff member in a particular day care 20064  
center or preschool program and who has been promoted to or 20065  
designated director shall have one year from the time the person 20066  
was promoted or designated to complete the required four courses; 20067~~

~~(b) Two years of training in an accredited college, 20068  
university, or technical college that includes at least four 20069  
courses in child development or early childhood education; 20070~~

~~(c) A child development associate credential issued by the 20071~~

~~national child development associate credentialing commission;~~ 20072

~~(d) An associate or higher degree in child development or~~ 20073

~~early childhood education from an accredited college, university,~~ 20074

~~or technical college.~~ 20075

(B) Each preschool staff member shall be at least eighteen 20076

years of age and have a high school diploma or a certification of 20077

high school equivalency issued by the state board of education or 20078

a comparable agency of another state, except that a staff member 20079

may be less than eighteen years of age if the staff member is a 20080

graduate of a two-year vocational child-care training program 20081

approved by the state board of education, or is a student enrolled 20082

in the second year of such a program that leads to high school 20083

graduation, provided that the student performs duties in the 20084

preschool program under the continuous supervision of an 20085

experienced preschool staff member and receives periodic 20086

supervision from the vocational child-care training program 20087

teacher-coordinator in the student's high school. 20088

A preschool staff member shall annually complete fifteen 20089

hours of inservice training in child development or early 20090

childhood education, child abuse recognition and prevention, and 20091

first aid, and in the prevention, recognition, and management of 20092

communicable diseases, until a total of forty-five hours has been 20093

completed, unless the staff member holds an associate or higher 20094

degree in child development or early childhood education from an 20095

accredited college, university, or technical college, or any type 20096

of educator license designated as appropriate for teaching in an 20097

associate teaching position in a preschool setting issued by the 20098

state board of education pursuant to section 3319.22 of the 20099

Revised Code. 20100

**Sec. 3301.55.** (A) A school district, county MR/DD board, or 20101

eligible nonpublic school, ~~head start grantee, or head start~~ 20102



~~delegate agency~~ operating a preschool program shall house the program in buildings that meet the following requirements:

(1) The building is operated by the district, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head start delegate agency~~ and has been approved by the division of industrial compliance in the department of commerce or a certified municipal, township, or county building department for the purpose of operating a program for preschool children. Any such structure shall be constructed, equipped, repaired, altered, and maintained in accordance with applicable provisions of Chapters 3781. and 3791. and with rules adopted by the board of building standards under Chapter 3781. of the Revised Code for the safety and sanitation of structures erected for this purpose.

(2) The building is in compliance with fire and safety laws and regulations as evidenced by reports of annual school fire and safety inspections as conducted by appropriate local authorities.

(3) The school is in compliance with rules established by the state board of education regarding school food services.

(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 20134  
meet the requirements of this section and section 3301.53 of the 20135  
Revised Code, and notify the superintendent of its determination. 20136  
If the board determines, on the basis of the building plan or any 20137  
other information, that the buildings do not meet those 20138  
requirements, it shall cause the buildings to be inspected by the 20139  
department of education. The department shall make a report to the 20140  
superintendent specifying any aspects of the building that are not 20141  
in compliance with the requirements of this section and section 20142  
3301.53 of the Revised Code and the time period that will be 20143  
allowed the district, county MR/DD board, or school, ~~grantee, or~~ 20144  
~~agency~~ to meet the requirements. 20145

**Sec. 3301.57.** (A) For the purpose of improving programs, 20146  
facilities, and implementation of the standards promulgated by the 20147  
state board of education under section 3301.53 of the Revised 20148  
Code, the state department of education shall provide consultation 20149  
and technical assistance to school districts, county MR/DD boards, 20150  
and eligible nonpublic schools, ~~head start grantees, and head~~ 20151  
~~start delegate agencies~~ operating preschool programs or school 20152  
child programs, and inservice training to preschool staff members, 20153  
school child program staff members, and nonteaching employees. 20154

(B) The department and the school district board of 20155  
education, county MR/DD board, or eligible nonpublic school, ~~head~~ 20156  
~~start grantee, or head start delegate agency~~ shall jointly monitor 20157  
each preschool program and each school child program. 20158

If the program receives any grant or other funding from the 20159  
state or federal government, the department annually shall monitor 20160  
all reports on attendance, financial support, and expenditures 20161  
according to provisions for use of the funds. 20162

(C) ~~The department of job and family services and the~~ 20163  
~~department of education shall enter into a contract pursuant to~~ 20164

~~which the department of education inspects preschool programs and 20165  
school child programs in accordance with sections 3301.52 to 20166  
3301.59 of the Revised Code, the rules adopted under those 20167  
sections, and any applicable procedures in Chapter 5104. of the 20168  
Revised Code and investigates any complaints filed pursuant to 20169  
those sections or rules. The contract shall require the department 20170  
of job and family services to pay the department of education for 20171  
conducting the inspections and investigations an amount equal to 20172  
the amount that the department of job and family services would 20173  
expend conducting the same number of inspections and 20174  
investigations with its employees under Chapter 5104. of the 20175  
Revised Code. 20176~~

~~(D)~~ The department of education, at least twice during every 20177  
twelve-month period of operation of a preschool program or a 20178  
licensed school child program, shall inspect the program and 20179  
provide a written inspection report to the superintendent of the 20180  
school district, county MR/DD board, or eligible nonpublic school, 20181  
~~head start grantee, or head start delegate agency.~~ At least one 20182  
inspection shall be unannounced, and all inspections may be 20183  
unannounced. No person shall interfere with any inspection 20184  
conducted pursuant to this division or to the rules adopted 20185  
pursuant to sections 3301.52 to 3301.59 of the Revised Code. 20186

Upon receipt of any complaint that a preschool program or a 20187  
licensed school child program is out of compliance with the 20188  
requirements in sections 3301.52 to 3301.59 of the Revised Code or 20189  
the rules adopted under those sections, the department shall 20190  
investigate and may inspect the program. 20191

~~(E)~~(D) If a preschool program or a licensed school child 20192  
program is determined to be out of compliance with the 20193  
requirements of sections 3301.52 to 3301.59 of the Revised Code or 20194  
the rules adopted under those sections, the department of 20195  
education shall notify the appropriate superintendent, county 20196

MR/DD board, or eligible nonpublic school, ~~head start grantee, or~~ 20197  
~~head start delegate agency~~ in writing regarding the nature of the 20198  
violation, what must be done to correct the violation, and by what 20199  
date the correction must be made. If the correction is not made by 20200  
the date established by the department, it may commence action 20201  
under Chapter 119. of the Revised Code to close the program or to 20202  
revoke the license of the program. If a program does not comply 20203  
with an order to cease operation issued in accordance with Chapter 20204  
119. of the Revised Code, the department shall notify the attorney 20205  
general, the prosecuting attorney of the county in which the 20206  
program is located, or the city attorney, village solicitor, or 20207  
other chief legal officer of the municipal corporation in which 20208  
the program is located that the program is operating in violation 20209  
of sections 3301.52 to 3301.59 of the Revised Code or the rules 20210  
adopted under those sections and in violation of an order to cease 20211  
operation issued in accordance with Chapter 119. of the Revised 20212  
Code. Upon receipt of the notification, the attorney general, 20213  
prosecuting attorney, city attorney, village solicitor, or other 20214  
chief legal officer shall file a complaint in the court of common 20215  
pleas of the county in which the program is located requesting the 20216  
court to issue an order enjoining the program from operating. The 20217  
court shall grant the requested injunctive relief upon a showing 20218  
that the program named in the complaint is operating in violation 20219  
of sections 3301.52 to 3301.59 of the Revised Code or the rules 20220  
adopted under those sections and in violation of an order to cease 20221  
operation issued in accordance with Chapter 119. of the Revised 20222  
Code. 20223

~~(F)~~(E) The department of education shall prepare an annual 20224  
report on inspections conducted under this section. The report 20225  
shall include the number of inspections conducted, the number and 20226  
types of violations found, and the steps taken to address the 20227  
violations. The department shall file the report with the 20228  
governor, the president and minority leader of the senate, and the 20229

speaker and minority leader of the house of representatives on or 20230  
before the first day of January of each year, beginning in 1999. 20231

**Sec. 3301.58.** (A) The department of education is responsible 20232  
for the licensing of preschool programs and school child programs 20233  
and for the enforcement of sections 3301.52 to 3301.59 of the 20234  
Revised Code and of any rules adopted under those sections. No 20235  
school district board of education, county MR/DD board, or 20236  
~~eligible nonpublic school, head start grantee, or head start~~ 20237  
~~delegate agency~~ shall operate, establish, manage, conduct, or 20238  
maintain a preschool program without a license issued under this 20239  
section. A school district board of education, county MR/DD board, 20240  
or eligible nonpublic school may obtain a license under this 20241  
section for a school child program. The school district board of 20242  
education, county MR/DD board, or eligible nonpublic school, ~~head~~ 20243  
~~start grantee, or head start delegate agency~~ shall post the 20244  
current license for each preschool program and licensed school 20245  
child program it operates, establishes, manages, conducts, or 20246  
maintains in a conspicuous place in the preschool program or 20247  
licensed school child program that is accessible to parents, 20248  
custodians, or guardians and employees and staff members of the 20249  
program at all times when the program is in operation. 20250

(B) Any school district board of education, county MR/DD 20251  
board, or eligible nonpublic school, ~~head start grantee, or head~~ 20252  
~~start delegate agency~~ that desires to operate, establish, manage, 20253  
conduct, or maintain a preschool program shall apply to the 20254  
department of education for a license on a form that the 20255  
department shall prescribe by rule. Any school district board of 20256  
education, county MR/DD board, or eligible nonpublic school that 20257  
desires to obtain a license for a school child program shall apply 20258  
to the department for a license on a form that the department 20259  
shall prescribe by rule. The department shall provide at no charge 20260  
to each applicant for a license under this section a copy of the 20261

requirements under sections 3301.52 to 3301.59 of the Revised Code 20262  
and any rules adopted under those sections. The department shall 20263  
mail application forms for the renewal of a license at least one 20264  
hundred twenty days prior to the date of the expiration of the 20265  
license, and the application for renewal of a license shall be 20266  
filed with the department at least sixty days before the date of 20267  
the expiration of the existing license. The department may 20268  
establish application fees by rule adopted under Chapter 119. of 20269  
the Revised Code, and all applicants for a license shall pay any 20270  
fee established by the department at the time of making an 20271  
application for a license. All fees collected pursuant to this 20272  
section shall be paid into the state treasury to the credit of the 20273  
general revenue fund. 20274

(C) Upon the filing of an application for a license, the 20275  
department of education shall investigate and inspect the 20276  
preschool program or school child program to determine the license 20277  
capacity for each age category of children of the program and to 20278  
determine whether the program complies with sections 3301.52 to 20279  
3301.59 of the Revised Code and any rules adopted under those 20280  
sections. When, after investigation and inspection, the department 20281  
of education is satisfied that sections 3301.52 to 3301.59 of the 20282  
Revised Code and any rules adopted under those sections are 20283  
complied with by the applicant, the department of education shall 20284  
issue the program a provisional license as soon as practicable in 20285  
the form and manner prescribed by the rules of the department. The 20286  
provisional license shall be valid for six months from the date of 20287  
issuance unless revoked. 20288

(D) The department of education shall investigate and inspect 20289  
a preschool program or school child program that has been issued a 20290  
provisional license at least once during operation under the 20291  
provisional license. If, after the investigation and inspection, 20292  
the department of education determines that the requirements of 20293

sections 3301.52 to 3301.59 of the Revised Code and any rules 20294  
adopted under those sections are met by the provisional licensee, 20295  
the department of education shall issue a license that is 20296  
effective for two years from the date of the issuance of the 20297  
provisional license. 20298

(E) Upon the filing of an application for the renewal of a 20299  
license by a preschool program or school child program, the 20300  
department of education shall investigate and inspect the 20301  
preschool program or school child program. If the department of 20302  
education determines that the requirements of sections 3301.52 to 20303  
3301.59 of the Revised Code and any rules adopted under those 20304  
sections are met by the applicant, the department of education 20305  
shall renew the license for two years from the date of the 20306  
expiration date of the previous license. 20307

(F) The license or provisional license shall state the name 20308  
of the school district board of education, county MR/DD board, or 20309  
eligible nonpublic school, ~~head start grantee, or head start~~ 20310  
~~delegate agency~~ that operates the preschool program or school 20311  
child program and the license capacity of the program. The license 20312  
shall include any other information required by section 5104.03 of 20313  
the Revised Code for the license of a child day-care center. 20314

(G) The department of education may revoke the license of any 20315  
preschool program or school child program that is not in 20316  
compliance with the requirements of sections 3301.52 to 3301.59 of 20317  
the Revised Code and any rules adopted under those sections. 20318

(H) If the department of education revokes a license or 20319  
refuses to renew a license to a program, the department shall not 20320  
issue a license to the program within two years from the date of 20321  
the revocation or refusal. All actions of the department with 20322  
respect to licensing preschool programs and school child programs 20323  
shall be in accordance with Chapter 119. of the Revised Code. 20324

**Sec. 3301.68.** There is hereby created the legislative 20325  
committee on education oversight as a subcommittee of the 20326  
legislative service commission. The committee shall consist of 20327  
five members of the house of representatives appointed by the 20328  
speaker of the house of representatives and five members of the 20329  
senate appointed by the president of the senate. Not more than 20330  
three of the members appointed from each house shall be members of 20331  
the same political party. Members shall serve during the term of 20332  
office to which they were elected. 20333

The committee, subject to the oversight and direction of the 20334  
legislative service commission, shall direct the work of the 20335  
legislative office of education oversight, which is hereby 20336  
established. The committee may employ a staff director and such 20337  
other staff as are necessary for the operation of the office, who 20338  
shall be in the unclassified service of the state, and may 20339  
contract for the services of whatever technical advisors are 20340  
necessary for the committee and the office to carry out their 20341  
duties. 20342

The chairperson and vice-chairperson of the legislative 20343  
service commission shall fix the compensation of the director. The 20344  
director, with the approval of the director of the legislative 20345  
service commission, shall fix the compensation of other staff of 20346  
the office in accordance with a salary schedule established by the 20347  
director of the legislative service commission. Contracts for the 20348  
services of necessary technical advisors shall be approved by the 20349  
director of the legislative service commission. 20350

All expenses incurred by the committee or office shall be 20351  
paid upon vouchers approved by the chairperson of the committee. 20352  
The committee shall adopt rules for the conduct of its business 20353  
and the election of officers, except that the office of 20354  
chairperson of the committee shall alternate each general assembly 20355



between a member of the house of representatives selected by the speaker and a member of the senate selected by the president.

The committee shall select, for the office to review and evaluate, education and school-related programs that receive state financial assistance in any form. The reviews and evaluations may include any of the following:

(A) Assessment of the uses school districts and institutions of higher education make of state money they receive and determination of the extent to which such money improves school district or institutional performance in the areas for which the money was intended to be used;

(B) Determination of whether an education program meets its intended goals, has adequate operating or administrative procedures and fiscal controls, encompasses only authorized activities, has any undesirable or unintended effects, and is efficiently managed;

(C) Examination of various pilot programs developed and initiated in school districts and at state-assisted colleges and universities to determine whether such programs suggest innovative, effective ways to deal with problems that may exist in other school districts or state-assisted colleges or universities, and to assess the fiscal costs and likely impact of adopting such programs throughout the state or in other state-assisted colleges and universities.

The committee shall report the results of each program review the office conducts to the general assembly.

If the general assembly directs the legislative office of education oversight to submit a study to the general assembly by a particular date, the committee has the authority to modify the scope and due date of the study to accommodate the availability of data and resources.

Sec. 3301.80. (A) There is hereby created the Ohio SchoolNet 20387  
commission as an independent agency. The commission shall 20388  
administer programs to provide financial and other assistance to 20389  
school districts and other educational institutions for the 20390  
acquisition and utilization of educational technology. 20391

The commission is a body corporate and politic, an agency of 20392  
the state performing essential governmental functions of the 20393  
state. 20394

(B)(1) The commission shall consist of ~~eleven~~ thirteen 20395  
members, ~~seven~~ nine of whom are voting members. Of the voting 20396  
members, one shall be appointed by the speaker of the house of 20397  
representatives ~~and~~, one shall be appointed by the president of 20398  
the senate, and two shall be appointed by the governor. The 20399  
members appointed by the speaker of the house and the president of 20400  
the senate shall not be members of the general assembly. The state 20401  
superintendent of public instruction or a designee of the 20402  
superintendent, the director of budget and management or a 20403  
designee of the director, the director of administrative services 20404  
or a designee of the director, the chairperson of the public 20405  
utilities commission or a designee of the chairperson, and the 20406  
director of the Ohio educational telecommunications network 20407  
commission or a designee of the director shall serve on the 20408  
commission as ex officio voting members. Of the nonvoting members, 20409  
two shall be members of the house of representatives appointed by 20410  
the speaker of the house and two shall be members of the senate 20411  
appointed by the president of the senate. The members appointed 20412  
from each house shall not be members of the same political party. 20413  
The commission shall appoint officers from among its members. 20414

(2) The members shall serve without compensation. The voting 20415  
members appointed by the speaker of the house of representatives 20416  
~~and~~, the president of the senate, and the governor shall be 20417

reimbursed, pursuant to office of budget and management 20418  
guidelines, for necessary expenses incurred in the performance of 20419  
official duties. 20420

(3) The terms of office for the members appointed by the 20421  
speaker of the house ~~and~~, the president of the senate, and the 20422  
governor shall be for two years, with each term ending on the same 20423  
day of the same month as did the term that it succeeds, except 20424  
that the voting members so appointed may be removed at ~~anytime~~ any 20425  
time by their respective appointing authority. The members 20426  
appointed by the speaker of the house ~~and~~, the president of the 20427  
senate, and the governor may be reappointed. Any member appointed 20428  
from the house of representatives or senate who ceases to be a 20429  
member of the legislative house from which the member was 20430  
appointed shall cease to be a member of the commission. Vacancies 20431  
among appointed members shall be filled in the manner provided for 20432  
original appointments. Any member appointed to fill a vacancy 20433  
occurring prior to the expiration date of the term for which a 20434  
predecessor was appointed shall hold office as a member for the 20435  
remainder of that term. The members appointed by the speaker of 20436  
the house ~~and~~, the president of the senate, and the governor shall 20437  
continue in office subsequent to the expiration date of that 20438  
member's term until a successor takes office or until a period of 20439  
sixty days has elapsed, whichever occurs first. 20440

(C)(1) The commission shall be under the supervision of an 20441  
executive director who shall be appointed by the commission. The 20442  
executive director shall serve at the pleasure of the commission 20443  
and shall direct commission employees in the administration of all 20444  
programs for the provision of financial and other assistance to 20445  
school districts and other educational institutions for the 20446  
acquisition and utilization of educational technology. 20447

(2) The employees of the Ohio SchoolNet commission shall be 20448  
placed in the unclassified service. The commission shall fix the 20449

compensation of the executive director. The executive director 20450  
shall employ and fix the compensation for such employees as 20451  
necessary to facilitate the activities and purposes of the 20452  
commission. The employees shall serve at the pleasure of the 20453  
executive director. 20454

(3) The employees of the Ohio SchoolNet commission shall be 20455  
exempt from Chapter 4117. of the Revised Code and shall not be 20456  
public employees as defined in section 4117.01 of the Revised 20457  
Code. 20458

(D) The Ohio SchoolNet commission shall do all of the 20459  
following: 20460

(1) Make grants to institutions and other organizations as 20461  
prescribed by the general assembly for the provision of technical 20462  
assistance, professional development, and other support services 20463  
to enable school districts, community schools established under 20464  
Chapter 3314. of the Revised Code, and other educational 20465  
institutions to utilize educational technology; 20466

(2) Contract with the department of education, state 20467  
institutions of higher education, private nonprofit institutions 20468  
of higher education holding certificates of authorization under 20469  
section 1713.02 of the Revised Code, and such other public or 20470  
private entities as the executive director deems necessary for the 20471  
administration and implementation of the programs under the 20472  
commission's jurisdiction; 20473

(3) Establish a reporting system to which school districts, 20474  
community schools established under Chapter 3314. of the Revised 20475  
Code, and other educational institutions receiving financial 20476  
assistance pursuant to this section for the acquisition of 20477  
educational technology report information as to the manner in 20478  
which such assistance was expended, the manner in which the 20479  
equipment or services purchased with the assistance is being 20480

utilized, the results or outcome of this utilization, and other 20481  
information as may be required by the commission; 20482

(4) Establish necessary guidelines governing purchasing and 20483  
procurement by participants in programs administered by the 20484  
commission that facilitate the timely and effective implementation 20485  
of such programs; 20486

(5) Take into consideration the efficiency and cost savings 20487  
of statewide procurement prior to allocating and releasing funds 20488  
for any programs under its administration. 20489

(E)(1) The executive director shall implement policies and 20490  
directives issued by the Ohio SchoolNet commission. 20491

(2) The Ohio SchoolNet commission may establish a systems 20492  
support network to facilitate the timely implementation of the 20493  
programs, projects, or activities for which it provides 20494  
assistance. 20495

(3) Chapters 123., 124., 125., and 153., and sections 9.331, 20496  
9.332, and 9.333 of the Revised Code do not apply to contracts, 20497  
programs, projects, or activities of the Ohio SchoolNet 20498  
commission. 20499

**Sec. 3302.03.** (A) Annually the department of education shall 20500  
report for each school district the extent to which it meets each 20501  
of the performance indicators created by the state board of 20502  
education under section 3302.02 of the Revised Code and shall 20503  
specify for each such district the number of performance 20504  
indicators that have been achieved and whether the district is an 20505  
excellent school district, an effective school district, needs 20506  
continuous improvement, is under an academic watch, or is in a 20507  
state of academic emergency. 20508

When possible, the department shall also determine for each 20509  
school building in a district the extent to which it meets any of 20510

the performance indicators applicable to the grade levels of the students in that school building and whether the school building is an excellent school, an effective school, needs continuous improvement, is under an academic watch, or is in a state of academic emergency.

(B) If the state board establishes seventeen performance indicators applicable to a school district or building under section 3302.02 of the Revised Code:

(1) A school district or building shall be declared excellent if it meets at least sixteen of the applicable state performance indicators.

(2) A school district or building shall be declared effective if it meets thirteen through fifteen of the applicable state performance indicators.

(3) A school district or building shall be declared to be in need of continuous improvement if it meets more than eight but less than thirteen of the applicable state performance indicators.

(4) A school district or building shall be declared to be under an academic watch if it meets more than five but not more than eight of the applicable state performance indicators.

(5) A school district or building shall be declared to be in a state of academic emergency if it does not meet more than five of the applicable state performance indicators.

(C) If the state board establishes more than seventeen performance indicators under section 3302.02 of the Revised Code, or if less than seventeen performance indicators are applicable to a school building, the state board shall establish the number of indicators that must be met in order for a district or building to be designated as excellent, effective, needs continuous improvement, is under an academic watch, or is in a state of academic emergency. The number established for each such category

under this division shall bear a similar relationship to the total 20542  
number of indicators as the number of indicators required for the 20543  
respective categories stated in division (B) of this section bears 20544  
to seventeen. 20545

(D)(1) The department shall issue annual report cards for 20546  
each school district, each building within each district, and for 20547  
the state as a whole reflecting performance on the indicators 20548  
created by the state board under section 3302.02 of the Revised 20549  
Code. 20550

(2) The department shall include on the report card for each 20551  
district information pertaining to any change from the previous 20552  
year made by the school district or school buildings within the 20553  
district on any performance indicator. 20554

(3) When reporting data on student performance, the 20555  
department shall disaggregate that data according to the following 20556  
categories: 20557

(a) Performance of students by age group; 20558

(b) Performance of students by race and ethnic group; 20559

(c) Performance of students by gender; 20560

(d) Performance of students grouped by those who have been 20561  
enrolled in a district or school for three or more years; 20562

(e) Performance of students grouped by those who have been 20563  
enrolled in a district or school for more than one year and less 20564  
than three years; 20565

(f) Performance of students grouped by those who have been 20566  
enrolled in a district or school for one year or less; 20567

~~(g) Performance of students grouped by those who are 20568  
classified as vocational education students pursuant to guidelines 20569  
adopted by the department for purposes of this division; 20570~~

~~(h) Performance of students grouped by those who are 20571~~

economically disadvantaged, to the extent that such data is 20572  
available from the education management information system 20573  
established under section 3301.0714 of the Revised Code; 20574

~~(i)~~(h) Performance of students grouped by those who are 20575  
enrolled in a conversion community school established under 20576  
Chapter 3314. of the Revised Code. 20577

The department may disaggregate data on student performance 20578  
according to other categories that the department determines are 20579  
appropriate. 20580

In reporting data pursuant to division (D)(3) of this 20581  
section, the department shall not include in the report cards any 20582  
data statistical in nature that is statistically unreliable or 20583  
that could result in the identification of individual students. 20584

(4) The department may include with the report cards any 20585  
additional education and fiscal performance data it deems 20586  
valuable. 20587

(5) The department shall include on each report card a list 20588  
of additional information collected by the department that is 20589  
available regarding the district or building for which the report 20590  
card is issued. When available, such additional information shall 20591  
include student mobility data disaggregated by race and 20592  
socioeconomic status, college enrollment data, and the reports 20593  
prepared under section 3302.031 of the Revised Code. 20594

The department shall maintain a site on the world wide web. 20595  
The report card shall include the address of the site and shall 20596  
specify that such additional information is available to the 20597  
public at that site. The department shall also provide a copy of 20598  
each item on the list to the superintendent of each school 20599  
district. The district superintendent shall provide a copy of any 20600  
item on the list to anyone who requests it. 20601

(6) For any district that sponsors a conversion community 20602



school under Chapter 3314. of the Revised Code, the department 20603  
shall combine data regarding the academic performance of students 20604  
enrolled in the community school with comparable data from the 20605  
schools of the district for the purpose of calculating the 20606  
performance of the district as a whole on the report card issued 20607  
for the district. 20608

(E) In calculating reading, writing, mathematics, social 20609  
studies, or science proficiency or achievement test passage rates 20610  
used to determine school district performance under this section, 20611  
the department shall include all students taking a test with 20612  
accommodation or to whom an alternate assessment is administered 20613  
pursuant to division (C)(1) of section 3301.0711 of the Revised 20614  
Code, but shall not include any student excused from taking a test 20615  
pursuant to division (C)(3) of that section, whether or not the 20616  
student chose to take the test voluntarily in spite of the 20617  
exemption granted in that division. 20618

**Sec. 3311.05.** (A) The territory within the territorial limits 20619  
of a county, or the territory included in a district formed under 20620  
either section 3311.053 or 3311.059 of the Revised Code, exclusive 20621  
of the territory embraced in any city school district or exempted 20622  
village school district, and excluding the territory detached 20623  
therefrom for school purposes and including the territory attached 20624  
thereto for school purposes constitutes an educational service 20625  
center. 20626

(B) A county school financing district created under section 20627  
3311.50 of the Revised Code is not the school district described 20628  
in division (A) of this section or any other school district but 20629  
is a taxing district. 20630

**Sec. 3311.059.** The procedure prescribed in this section may 20631  
be used in lieu of a transfer prescribed under section 3311.231 of 20632

the Revised Code. 20633

(A) Subject to divisions (B) and (C) of this section, a board 20634  
of education of a local school district may by a resolution 20635  
approved by a majority of all its members propose to sever that 20636  
local school district from the territory of the educational 20637  
service center in which the local school district is currently 20638  
included and to instead annex the local school district to the 20639  
territory of another educational service center, the current 20640  
territory of which is adjacent to the territory of the educational 20641  
service center in which the local school district is currently 20642  
included. The resolution shall promptly be filed with the 20643  
governing board of each educational service center affected by the 20644  
resolution and with the superintendent of public instruction. 20645

(B) The resolution adopted under division (A) of this section 20646  
shall not be effective unless it is approved by both the governing 20647  
board of the educational service center to which the board of 20648  
education proposes to annex the local school district and the 20649  
state board of education. The severance of the local school 20650  
district from one educational service center and its annexation to 20651  
another educational service center under this section shall not be 20652  
effective until one year after the first day of July following the 20653  
later of the date that the governing board of the educational 20654  
service center to which the local school district is proposed to 20655  
be annexed approves the resolution or the date the board of 20656  
elections certifies the results of the referendum election as 20657  
provided in division (C) of this section. 20658

(C) Within sixty days following the date of the adoption of 20659  
the resolution under division (A) of this section, the electors of 20660  
the local school district may petition for a referendum vote on 20661  
the resolution. The question whether to approve or disapprove the 20662  
resolution shall be submitted to the electors of such school 20663  
district if a number of qualified electors equal to twenty per 20664

cent of the number of electors in the school district who voted 20665  
for the office of governor at the most recent general election for 20666  
that office sign a petition asking that the question of whether 20667  
the resolution shall be disapproved be submitted to the electors. 20668  
The petition shall be filed with the board of elections of the 20669  
county in which the school district is located. If the school 20670  
district is located in more than one county, the petition shall be 20671  
filed with the board of elections of the county in which the 20672  
majority of the territory of the school district is located. The 20673  
board shall certify the validity and sufficiency of the signatures 20674  
on the petition. 20675

The board of elections shall immediately notify the board of 20676  
education of the local school district and the governing board of 20677  
each educational service center affected by the resolution that 20678  
the petition has been filed. 20679

The effect of the resolution shall be stayed until the board 20680  
of elections certifies the validity and sufficiency of the 20681  
signatures on the petition. If the board of elections determines 20682  
that the petition does not contain a sufficient number of valid 20683  
signatures and sixty days have passed since the adoption of the 20684  
resolution, the resolution shall become effective as provided in 20685  
division (B) of this section. 20686

If the board of elections certifies that the petition 20687  
contains a sufficient number of valid signatures, the board shall 20688  
submit the question to the qualified electors of the school 20689  
district on the day of the next general or primary election held 20690  
at least seventy-five days after the board of elections certifies 20691  
the validity and sufficiency of signatures on the petition. The 20692  
election shall be conducted and canvassed and the results shall be 20693  
certified in the same manner as in regular elections for the 20694  
election of members of a board of education. 20695

If a majority of the electors voting on the question 20696

disapprove the resolution, the resolution shall not become 20697  
effective. If a majority of the electors voting on the question 20698  
approve the resolution, the resolution shall become effective as 20699  
provided in division (B) of this section. 20700

(D) Upon the effective date of the severance of the local 20701  
school district from one educational service center and its 20702  
annexation to another educational service center as provided in 20703  
division (B) of this section, the governing board of each 20704  
educational service center shall take such steps for the election 20705  
of members of the governing board and for organization of the 20706  
governing board as prescribed in Chapter 3313. of the Revised 20707  
Code. 20708

**Sec. 3311.24.** (A) Except as provided in division (B) of this 20709  
section, if the board of education of a city, exempted village, or 20710  
local school district deems it advisable to transfer territory 20711  
from such district to an adjoining city, exempted village, or 20712  
local school district, or if a petition, signed by seventy-five 20713  
per cent of the qualified electors residing within that portion of 20714  
a city, exempted village, or local school district proposed to be 20715  
transferred voting at the last general election, requests such a 20716  
transfer, the board of education of the district in which such 20717  
proposal originates shall file such proposal, together with a map 20718  
showing the boundaries of the territory proposed to be 20719  
transferred, with the state board of education prior to the first 20720  
day of April in any even-numbered year. The state board of 20721  
education may, if it is advisable, provide for a hearing in any 20722  
suitable place in any of the school districts affected by such 20723  
proposed transfer of territory. The state board of education or 20724  
its representatives shall preside at any such hearing. 20725

A board of education of a city, exempted village, or local 20726  
school district that receives a petition of transfer under this 20727

division shall cause the board of elections to check the 20728  
sufficiency of signatures on the petition. 20729

Not later than the first day of September the state board of 20730  
education shall either approve or disapprove a proposed transfer 20731  
of territory filed with it as provided by this section and shall 20732  
notify, in writing, the boards of education of the districts 20733  
affected by such proposed transfer of territory of its decision. 20734

If the decision of the state board of education is an 20735  
approval of the proposed transfer of territory then the board of 20736  
education of the district in which the territory is located shall, 20737  
within thirty days after receiving the state board of education's 20738  
decision, adopt a resolution transferring the territory and shall 20739  
forthwith submit a copy of such resolution to the treasurer of the 20740  
board of education of the city, exempted village, or local school 20741  
district to which the territory is transferred. Such transfer 20742  
shall not be complete however, until: 20743

(1) A resolution accepting the transfer has been passed by a 20744  
majority vote of the full membership of the board of education of 20745  
the city, exempted village, or local school district to which the 20746  
territory is transferred; 20747

(2) An equitable division of the funds and indebtedness 20748  
between the districts involved has been made by the board of 20749  
education making the transfer; 20750

(3) A map showing the boundaries of the territory transferred 20751  
has been filed, by the board of education accepting the transfer, 20752  
with the county auditor of each county affected by the transfer. 20753

When such transfer is complete the legal title of the school 20754  
property in the territory transferred shall be vested in the board 20755  
of education or governing board of the school district to which 20756  
the territory is transferred. 20757

(B) Whenever the transfer of territory pursuant to this 20758

section is initiated by a board of education, the board shall, 20759  
before filing a proposal for transfer with the state board of 20760  
education under this section, make a good faith effort to 20761  
negotiate the terms of transfer with any other school district 20762  
whose territory would be affected by the transfer. Before the 20763  
state board may hold a hearing on the transfer, or approve or 20764  
disapprove any such transfer, it must receive the following: 20765

(1) A resolution requesting approval of the transfer, passed 20766  
by the school district submitting the proposal; 20767

(2) Evidence determined to be sufficient by the state board 20768  
to show that good faith negotiations have taken place or that the 20769  
district requesting the transfer has made a good faith effort to 20770  
hold such negotiations; 20771

(3) If any negotiations took place, a statement signed by all 20772  
boards that participated in the negotiations, listing the terms 20773  
agreed on and the points on which no agreement could be reached. 20774

Negotiations held pursuant to this section shall be governed 20775  
by the rules adopted by the state board under division (D) of 20776  
section 3311.06 of the Revised Code. Districts involved in a 20777  
transfer under division (B) of this section may agree to share 20778  
revenues from the property included in the territory to be 20779  
transferred, establish cooperative programs between the 20780  
participating districts, and establish mechanisms for the 20781  
settlement of any future boundary disputes. 20782

~~Sec. 3311.26. A governing board of an educational service~~ 20783  
~~center~~ The state board of education may, by resolution adopted by 20784  
majority vote of its full membership, propose the creation of a 20785  
new local school district from one or more local school districts 20786  
or parts thereof, including the creation of a local district with 20787  
noncontiguous territory from one or more local school districts if 20788  
one of those districts has entered into an agreement under section 20789

3313.42 of the Revised Code. Such proposal shall include an 20790  
accurate map showing the territory affected. After the adoption of 20791  
the resolution, the ~~governing state~~ board shall file a copy of 20792  
such proposal with the board of education of each school district 20793  
whose boundaries would be altered by such proposal. 20794

~~A governing board of a service center proposing~~ Upon the 20795  
creation of a new district under this section, the state board 20796  
shall at its next regular meeting that occurs not earlier than 20797  
thirty days after the adoption by the ~~governing state~~ board of the 20798  
resolution proposing such creation, adopt a resolution making the 20799  
creation effective prior to the next succeeding first day of July, 20800  
unless, prior to the expiration of such thirty-day period, 20801  
qualified electors residing in the area included in such proposed 20802  
new district, equal in number to thirty-five per cent of the 20803  
qualified electors voting at the last general election, file a 20804  
petition of referendum against the creation of the proposed new 20805  
district. 20806

A petition of referendum filed under this section shall be 20807  
filed at the office of the ~~educational service center state~~ 20808  
superintendent of public instruction. The person presenting the 20809  
petition shall be given a receipt containing thereon the time of 20810  
day, the date, and the purpose of the petition. 20811

If a petition of referendum is filed, the ~~governing state~~ 20812  
board shall, at the next regular meeting of the ~~governing state~~ 20813  
board, certify the proposal to the board of elections for the 20814  
purpose of having the proposal placed on the ballot at the next 20815  
general or primary election which occurs not less than 20816  
seventy-five days after the date of such certification, or at a 20817  
special election, the date of which shall be specified in the 20818  
certification, which date shall not be less than seventy-five days 20819  
after the date of such certification. 20820

Upon certification of a proposal to the board or boards of 20821

elections pursuant to this section, the board or boards of 20822  
elections shall make the necessary arrangements for the submission 20823  
of such question to the electors of the county or counties 20824  
qualified to vote thereon, and the election shall be conducted and 20825  
canvassed and the results shall be certified in the same manner as 20826  
in regular elections for the election of members of a board of 20827  
education. 20828

The persons qualified to vote upon a proposal are the 20829  
electors residing in the proposed new districts. 20830

If the proposed district be approved by at least a majority 20831  
of the electors voting on the proposal, the ~~governing state~~ board 20832  
shall then create such new district prior to the next succeeding 20833  
first day of July, ~~and shall so notify the state board of~~ 20834  
~~education.~~ 20835

Upon the creation of such district, the indebtedness of each 20836  
former district becoming in its entirety a part of the new 20837  
district shall be assumed in full by the new district. Upon the 20838  
creation of such district, that part of the net indebtedness of 20839  
each former district becoming only in part a part of the new 20840  
district shall be assumed by the new district which bears the same 20841  
ratio to the entire net indebtedness of the former district as the 20842  
assessed valuation of the part taken by the new district bears to 20843  
the entire assessed valuation of the former district as fixed on 20844  
the effective date of transfer. As used in this section, "net 20845  
indebtedness" means the difference between the par value of the 20846  
outstanding and unpaid bonds and notes of the school district and 20847  
the amount held in the sinking fund and other indebtedness 20848  
retirement funds for their redemption. Upon the creation of such 20849  
district, the funds of each former district becoming in its 20850  
entirety a part of the new district shall be paid over in full to 20851  
the new district. Upon the creation of such district, the funds of 20852  
each former district becoming only in part a part of the new 20853



district shall be divided equitably by the ~~governing~~ state board 20854  
between the new district and that part of the former district not 20855  
included in the new district as such funds existed on the 20856  
effective date of the creation of the new district. 20857

The ~~governing~~ state board shall, following the election, file 20858  
with the county auditor of each county affected by the creation of 20859  
a new district an accurate map showing the boundaries of such 20860  
newly created district. 20861

When a new local school district is so created ~~within an~~ 20862  
~~educational service center~~, a board of education for such newly 20863  
created district shall be appointed by the ~~educational service~~ 20864  
~~center governing~~ state board. The members of such appointed board 20865  
of education shall hold their office until their successors are 20866  
elected and qualified. A board of education shall be elected for 20867  
such newly created district at the next general election held in 20868  
an odd numbered year occurring more than thirty days after the 20869  
appointment of the board of education of such newly created 20870  
district. At such election two members shall be elected for a term 20871  
of two years and three members shall be elected for a term of four 20872  
years, and, thereafter, their successors shall be elected in the 20873  
same manner and for the same terms as members of the board of 20874  
education of a local school district. 20875

When the new district consists of territory lying in two or 20876  
more counties, the state board shall determine to which 20877  
educational service center the new district shall be assigned. 20878

The legal title of all property of the board of education in 20879  
the territory taken shall become vested in the board of education 20880  
of the newly created school district. 20881

Foundation program moneys accruing to a district created 20882  
under the provisions of this section or previous section 3311.26 20883  
of the Revised Code, shall not be less, in any year during the 20884

next succeeding three years following the creation, than the sum 20885  
of the amounts received by the districts separately in the year in 20886  
which the creation of the district became effective. 20887

Consolidations of school districts which include all of the 20888  
schools of a county and which become effective on or after July 1, 20889  
1959, shall be governed and included under this section. 20890

**Sec. 3313.41.** (A) Except as provided in divisions (C), (D), 20891  
(F), and (G) of this section, when a board of education decides to 20892  
dispose of real or personal property that it owns in its corporate 20893  
capacity, and that exceeds in value ten thousand dollars, it shall 20894  
sell the property at public auction, after giving at least thirty 20895  
days' notice of the auction by publication in a newspaper of 20896  
general circulation or by posting notices in five of the most 20897  
public places in the school district in which the property, if it 20898  
is real property, is situated, or, if it is personal property, in 20899  
the school district of the board of education that owns the 20900  
property. The board may offer real property for sale as an entire 20901  
tract or in parcels. 20902

(B) When the board of education has offered real or personal 20903  
property for sale at public auction at least once pursuant to 20904  
division (A) of this section, and the property has not been sold, 20905  
the board may sell it at a private sale. Regardless of how it was 20906  
offered at public auction, at a private sale, the board shall, as 20907  
it considers best, sell real property as an entire tract or in 20908  
parcels, and personal property in a single lot or in several lots. 20909

(C) If a board of education decides to dispose of real or 20910  
personal property that it owns in its corporate capacity and that 20911  
exceeds in value ten thousand dollars, it may sell the property to 20912  
the adjutant general; to any subdivision or taxing authority as 20913  
respectively defined in divisions (A) and (C) of section 5705.01 20914  
of the Revised Code, township park district, board of park 20915

commissioners established under Chapter 755. of the Revised Code, 20916  
or park district established under Chapter 1545. of the Revised 20917  
Code; to a wholly or partially tax-supported university, 20918  
university branch, or college; or to the board of trustees of a 20919  
school district library, upon such terms as are agreed upon. The 20920  
sale of real or personal property to the board of trustees of a 20921  
school district library is limited, in the case of real property, 20922  
to a school district library within whose boundaries the real 20923  
property is situated, or, in the case of personal property, to a 20924  
school district library whose boundaries lie in whole or in part 20925  
within the school district of the selling board of education. 20926

(D) When a board of education decides to trade as a part or 20927  
an entire consideration, an item of personal property on the 20928  
purchase price of an item of similar personal property, it may 20929  
trade the same upon such terms as are agreed upon by the parties 20930  
to the trade. 20931

(E) The president and the treasurer of the board of education 20932  
shall execute and deliver deeds or other necessary instruments of 20933  
conveyance to complete any sale or trade under this section. 20934

(F) When a board of education has identified a parcel of real 20935  
property that it determines is needed for school purposes, the 20936  
board may, upon a majority vote of the members of the board, 20937  
acquire that property by exchanging real property that the board 20938  
owns in its corporate capacity for the identified real property or 20939  
by using real property that the board owns in its corporate 20940  
capacity as part or an entire consideration for the purchase price 20941  
of the identified real property. Any exchange or acquisition made 20942  
pursuant to this division shall be made by a conveyance executed 20943  
by the president and the treasurer of the board. 20944

(G)(1) When a school district board of education decides to 20945  
dispose of real property suitable for use as classroom space, 20946  
prior to disposing of such property under division (A) through (F) 20947

of this section, it shall first offer that property for sale to 20948  
the governing authorities of the start-up community schools, 20949  
established under Chapter 3314. of the Revised Code and located 20950  
within the territory of the school district, at a price that is 20951  
not higher than the appraised fair market value of that property. 20952  
If more than one community school governing authority accepts the 20953  
offer made by the school district board, the board shall sell the 20954  
property to the governing authority that accepted the offer first 20955  
in time. If no community school governing authority accepts the 20956  
offer within sixty days after the offer is made by the school 20957  
district board, the board may dispose of the property in the 20958  
applicable manner prescribed under divisions (A) to (F) of this 20959  
section. 20960

(2) If disposal of real property is planned as a part of a 20961  
school district project under Chapter 3318. of the Revised Code, 20962  
the Ohio school facilities commission shall not release any state 20963  
funds to a school district until the district has complied with 20964  
the provisions of division (G)(1) of this section, except for 20965  
funds specified for demolition of a facility to clear a site for 20966  
construction of a replacement facility included in the district's 20967  
project. 20968

**Sec. 3313.843.** (A) Notwithstanding division (D) of section 20969  
3311.52 of the Revised Code, this section does not apply to either 20970  
of the following: 20971

(1) Any cooperative education school district; 20972

(2) Any city or exempted village school district with a total 20973  
student count of thirteen thousand or more determined pursuant to 20974  
section 3317.03 of the Revised Code that has not entered into one 20975  
or more agreements pursuant to this section prior to July 1, 1993, 20976  
unless the district's total student count did not exceed thirteen 20977  
thousand at the time it entered into an initial agreement under 20978

this section. 20979

(B) The board of education of a city or exempted village 20980  
school district and the governing board of an educational service 20981  
center with territory in a county in which the city or exempted 20982  
village school district also has territory may enter into an 20983  
agreement, through adoption of identical resolutions, under which 20984  
the educational service center governing board will provide 20985  
services to the city or exempted village school district. 20986

Services provided under the agreement shall be specified in 20987  
the agreement, and may include any one or a combination of the 20988  
following: supervisory teachers; in-service and continuing 20989  
education programs for city or exempted village school district 20990  
personnel; curriculum services as provided to the local school 20991  
districts under the supervision of the service center governing 20992  
board; research and development programs; academic instruction for 20993  
which the governing board employs teachers pursuant to section 20994  
3319.02 of the Revised Code; and assistance in the provision of 20995  
special accommodations and classes for handicapped students. 20996  
Services included in the agreement shall be provided to the city 20997  
or exempted village district in the same manner they are provided 20998  
to local school districts under the governing board's supervision, 20999  
unless otherwise specified in the agreement. The city or exempted 21000  
village board of education shall reimburse the educational service 21001  
center governing board pursuant to section 3317.11 of the Revised 21002  
Code. 21003

(C)(1) If an educational service center received funding 21004  
under division (B) of former section 3317.11 or division (F) of 21005  
section 3317.11 of the Revised Code for an agreement under this 21006  
section involving a city school district whose total student count 21007  
was less than thirteen thousand, the service center may continue 21008  
to receive funding under that division for such an agreement in 21009  
any subsequent year if the city district's total student count 21010

exceeds thirteen thousand. However, only the first thirteen 21011  
thousand pupils in the formula ADM of such district shall be 21012  
included in determining the amount of the per pupil subsidy the 21013  
service center shall receive under division ~~(B)~~(F) of section 21014  
3317.11 of the Revised Code. 21015

(2) If, prior to ~~the effective date of this amendment~~ July 1, 21016  
1998, an educational service center received funding under 21017  
division (B) of former section 3317.11 of the Revised Code for a 21018  
period of at least three years, for a good faith agreement under 21019  
this section involving a city school district with no territory in 21020  
the county in which the educational service center has territory, 21021  
that educational service center and that city school district may 21022  
enter into an agreement under this section, and the service center 21023  
shall receive funding under division ~~(B)~~(F) of section 3317.11 of 21024  
the Revised Code for any such agreement, notwithstanding the 21025  
territorial boundaries of the service center and the city school 21026  
district. 21027

(D) Any agreement entered into pursuant to this section shall 21028  
be valid only if a copy is filed with the department of education 21029  
by the first day of the school year for which the agreement is in 21030  
effect. 21031

**Sec. 3313.979.** Each scholarship ~~or grant~~ to be used for 21032  
payments to a registered private school ~~or to an approved tutorial~~ 21033  
~~assistance provider~~ is payable to the parents of the student 21034  
entitled to the scholarship ~~or grant~~. Each scholarship to be used 21035  
for payments to a public school in an adjacent school district is 21036  
payable to the school district of attendance by the superintendent 21037  
of public instruction. Each grant to be used for payments to an 21038  
approved tutorial assistance provider is payable to the approved 21039  
tutorial assistance provider. 21040

(A)(1) By the fifteenth day of each month of the school year 21041

that any scholarship students are enrolled in a registered private 21042  
school, the chief administrator of that school shall notify the 21043  
state superintendent of: 21044

(a) The number of students who were reported to the school 21045  
district as having been admitted by that private school pursuant 21046  
to division (A)(2)(b) of section 3313.978 of the Revised Code and 21047  
who were still enrolled in the private school as of the first day 21048  
of such month, and the numbers of such students who qualify for 21049  
seventy-five and ninety per cent of the scholarship amount; 21050

(b) The number of students who were reported to the school 21051  
district as having been admitted by another private school 21052  
pursuant to division (A)(2)(b) of section 3313.978 of the Revised 21053  
Code and since the date of admission have transferred to the 21054  
school providing the notification under division (A)(1) of this 21055  
section, and the numbers of such students who qualify for 21056  
seventy-five and ninety per cent of the scholarship amount. 21057

(2) From time to time, the state superintendent shall make a 21058  
payment to the parent of each student entitled to a scholarship. 21059  
Each payment shall include for each student reported under 21060  
division (A)(1) of this section, a portion of seventy-five or 21061  
ninety per cent, as applicable, of the scholarship amount 21062  
specified in divisions (C)(1) and (2) of section 3313.978 of the 21063  
Revised Code. This amount shall be proportionately reduced in the 21064  
case of any such student who is not enrolled in a registered 21065  
private school for the entire school year. 21066

(3) The first payment under this division shall be made by 21067  
the last day of November and shall equal one-third of seventy-five 21068  
or ninety per cent, as applicable, of the estimated total amount 21069  
that will be due to the parent for the school year pursuant to 21070  
division (A)(2) of this section. 21071

(B) The state superintendent, on behalf of the parents of a 21072

scholarship student enrolled in a public school in an adjacent 21073  
school district pursuant to section 3327.06 of the Revised Code, 21074  
shall make the tuition payments required by that section to the 21075  
school district admitting the student, except that, 21076  
notwithstanding sections 3323.13, 3323.14, and 3327.06 of the 21077  
Revised Code, the total payments in any school year shall not 21078  
exceed seventy-five or ninety per cent, as applicable, of the 21079  
scholarship amount provided in divisions (C)(1) and (2) of section 21080  
3313.978 of the Revised Code. 21081

(C) Whenever an approved provider provides tutorial 21082  
assistance to a student, the state superintendent shall pay the 21083  
~~parent~~ approved provider for such costs upon receipt of a 21084  
statement ~~from the parent~~ specifying the services provided and the 21085  
costs of the services, which statement shall be signed by the 21086  
provider and verified by the chief administrator having 21087  
supervisory control over the tutoring site. The total payments to 21088  
any ~~parent~~ approved provider under this division for all provider 21089  
services to any individual student in any school year shall not 21090  
exceed seventy-five or ninety per cent, as applicable, of the 21091  
grant amount provided in division (C)(3) of section 3313.978 of 21092  
the Revised Code. 21093

**Sec. 3313.981.** (A) The state board shall adopt rules 21094  
requiring all of the following: 21095

(1) The board of education of each city, exempted village, 21096  
and local school district to annually report to the department of 21097  
education all of the following: 21098

(a) The number of adjacent district or other district 21099  
students, as applicable, and adjacent district or other district 21100  
joint vocational students, as applicable, enrolled in the district 21101  
and the number of native students enrolled in adjacent or other 21102  
districts, in accordance with a policy adopted under division (B) 21103



of section 3313.98 of the Revised Code;	21104
(b) Each adjacent district or other district student's or	21105
adjacent district or other district joint vocational student's	21106
date of enrollment in the district;	21107
(c) The full-time equivalent number of adjacent district or	21108
other district students enrolled in vocational education programs	21109
or classes described in division (A) of section 3317.014 of the	21110
Revised Code and the full-time equivalent number of such students	21111
enrolled in vocational education programs or classes described in	21112
division (B) of that section;	21113
(d) Each native student's date of enrollment in an adjacent	21114
or other district.	21115
(2) The board of education of each joint vocational school	21116
district to annually report to the department all of the	21117
following:	21118
(a) The number of adjacent district or other district joint	21119
vocational students, as applicable, enrolled in the district;	21120
(b) The full-time equivalent number of adjacent district or	21121
other district joint vocational students enrolled in vocational	21122
education programs or classes described in division (A) of section	21123
3317.014 of the Revised Code and the full-time equivalent number	21124
of such students enrolled in vocational education programs or	21125
classes described in division (B) of that section;	21126
(c) For each adjacent district or other district joint	21127
vocational student, the city, exempted village, or local school	21128
district in which the student is also enrolled.	21129
(3) Prior to the first full school week in October each year,	21130
the superintendent of each city, local, or exempted village school	21131
district that admits adjacent district or other district students	21132
or adjacent district or other district joint vocational students	21133

in accordance with a policy adopted under division (B) of section 21134  
3313.98 of the Revised Code to notify each adjacent or other 21135  
district where those students are entitled to attend school under 21136  
section 3313.64 or 3313.65 of the Revised Code of the number of 21137  
the adjacent or other district's native students who are enrolled 21138  
in the superintendent's district under the policy. 21139

The rules shall provide for the method of counting students 21140  
who are enrolled for part of a school year in an adjacent or other 21141  
district or as an adjacent district or other district joint 21142  
vocational student. 21143

(B) From the payments made to a city, exempted village, or 21144  
local school district under Chapter 3317. of the Revised Code, the 21145  
department of education shall annually subtract both of the 21146  
following: 21147

(1) An amount equal to the number of the district's native 21148  
students reported under division (A)(1) of this section who are 21149  
enrolled in adjacent or other school districts pursuant to 21150  
policies adopted by such districts under division (B) of section 21151  
3313.98 of the Revised Code multiplied by the adjusted formula 21152  
amount for the district; 21153

(2) The excess costs computed in accordance with division (E) 21154  
of this section for any such native students receiving special 21155  
education and related services in adjacent or other school 21156  
districts or as an adjacent district or other district joint 21157  
vocational student; 21158

(3) For the full-time equivalent number of the district's 21159  
native students reported under division (A)(1)(c) or (2)(b) of 21160  
this section as enrolled in vocational education programs or 21161  
classes described in section 3317.014 of the Revised Code, an 21162  
amount equal to the formula amount times the applicable multiple 21163  
prescribed by that section. 21164

(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 students, except for any adjacent or other district joint vocational students, receiving special education and related services in the district;

(3) For the full-time equivalent number of the adjacent or other district students who are not adjacent district or other district joint vocational students and are reported under division (A)(1)(c) 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;

(4) An amount equal to the number of adjacent district or other district joint vocational students reported under division (A)(1) of this section multiplied by an amount equal to ~~one-fourth~~ ten per cent of the adjusted formula amount for the district.

(D) To the payments made to a joint vocational school district under Chapter 3317. of the Revised Code, the department of education shall add, for each adjacent district or other district joint vocational student reported under division (A)(2) of this section, both of the following:

(1) An amount equal to the adjusted formula amount of the

city, exempted village, or local school district in which the 21196  
student is also enrolled; 21197

(2) An amount equal to the full-time equivalent number of 21198  
students reported pursuant to division (A)(2)(b) of this section 21199  
times the formula amount times the applicable multiple prescribed 21200  
by section 3317.014 of the Revised Code. 21201

(E)(1) A city, exempted village, or local school board 21202  
providing special education and related services to an adjacent or 21203  
other district student in accordance with an IEP shall, pursuant 21204  
to rules of the state board, compute the excess costs to educate 21205  
such student as follows: 21206

(a) Subtract the adjusted formula amount for the district 21207  
from the actual costs to educate the student; 21208

(b) From the amount computed under division (E)(1)(a) of this 21209  
section subtract the amount of any funds received by the district 21210  
under Chapter 3317. of the Revised Code to provide special 21211  
education and related services to the student. 21212

(2) The board shall report the excess costs computed under 21213  
this division to the department of education. 21214

(3) If any student for whom excess costs are computed under 21215  
division (E)(1) of this section is an adjacent or other district 21216  
joint vocational student, the department of education shall add 21217  
the amount of such excess costs to the payments made under Chapter 21218  
3317. of the Revised Code to the joint vocational school district 21219  
enrolling the student. 21220

(F) As provided in division (D)(1)(b) of section 3317.03 of 21221  
the Revised Code, no joint vocational school district shall count 21222  
any adjacent or other district joint vocational student enrolled 21223  
in the district in its formula ADM certified under section 3317.03 21224  
of the Revised Code. 21225

(G) No city, exempted village, or local school district shall receive a payment under division (C) of this section for a student, and no joint vocational school district shall receive a payment under division (D) of this section for a student, if for the same school year that student is counted in the district's formula ADM certified under section 3317.03 of the Revised Code.

(H) Upon request of a parent, and provided the board offers transportation to native students of the same grade level and distance from school under section 3327.01 of the Revised Code, a city, exempted village, or local school board enrolling an adjacent or other district student shall provide transportation for the student within the boundaries of the board's district, except that the board shall be required to pick up and drop off a nonhandicapped student only at a regular school bus stop designated in accordance with the board's transportation policy. Pursuant to rules of the state board of education, such board may reimburse the parent from funds received under division (D) of section 3317.022 of the Revised Code for the reasonable cost of transportation from the student's home to the designated school bus stop if the student's family has an income below the federal poverty line.

**Sec. 3314.02.** (A) As used in this chapter:

(1) "Sponsor" means an entity listed in division (C)(1) of this section, which has been approved by the department of education to sponsor community schools and with which the governing authority of the proposed community school enters into a contract pursuant to this section.

(2) "Pilot project area" means the school districts included in the territory of the former community school pilot project established by former Section 50.52 of Am. Sub. H.B. No. 215 of the 122nd general assembly.

(3) "Challenged school district" means any of the following:	21257
(a) A school district that is part of the pilot project area;	21258
(b) A school district that is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code;	21259 21260 21261
(c) A big eight school district;	21262
<del>(d) An urban school district.</del>	21263
(4) "Big eight school district" means a school district that for fiscal year 1997 had both of the following:	21264 21265
(a) A percentage of children residing in the district and participating in the predecessor of Ohio works first greater than thirty per cent, as reported pursuant to section 3317.10 of the Revised Code;	21266 21267 21268 21269
(b) An average daily membership greater than twelve thousand, as reported pursuant to former division (A) of section 3317.03 of the Revised Code.	21270 21271 21272
(5) "New start-up school" means a community school other than one created by converting all or part of an existing public school, as designated in the school's contract pursuant to division (A)(17) of section 3314.03 of the Revised Code.	21273 21274 21275 21276
(6) "Urban school district" means one of the state's twenty-one urban school districts as defined in division (O) of section 3317.02 of the Revised Code as that section existed prior to July 1, 1998.	21277 21278 21279 21280
(7) "Internet- or computer-based community school" means a community school established under this chapter in which the enrolled students work primarily from their residences on assignments provided via an internet- or other computer-based instructional method that does not rely on regular classroom instruction.	21281 21282 21283 21284 21285 21286

(B) Any person or group of individuals may initially propose 21287  
under this division the conversion of all or a portion of a public 21288  
school to a community school. The proposal shall be made to the 21289  
board of education of the city, local, or exempted village school 21290  
district in which the public school is proposed to be converted. 21291  
Upon receipt of a proposal, a board may enter into a preliminary 21292  
agreement with the person or group proposing the conversion of the 21293  
public school, indicating the intention of the board of education 21294  
to support the conversion to a community school. A proposing 21295  
person or group that has a preliminary agreement under this 21296  
division may proceed to finalize plans for the school, establish a 21297  
governing authority for the school, and negotiate a contract with 21298  
the board of education. Provided the proposing person or group 21299  
adheres to the preliminary agreement and all provisions of this 21300  
chapter, the board of education shall negotiate in good faith to 21301  
enter into a contract in accordance with section 3314.03 of the 21302  
Revised Code and division (C) of this section. 21303

(C)(1) Any person or group of individuals may propose under 21304  
this division the establishment of a new start-up school to be 21305  
located in a challenged school district. The proposal may be made 21306  
to any of the following entities: 21307

(a) The board of education of the district in which the 21308  
school is proposed to be located; 21309

(b) The board of education of any joint vocational school 21310  
district with territory in the county in which is located the 21311  
majority of the territory of the district in which the school is 21312  
proposed to be located; 21313

(c) The board of education of any other city, local, or 21314  
exempted village school district having territory in the same 21315  
county where the district in which the school is proposed to be 21316  
located has the major portion of its territory; 21317

(d) The governing board of any educational service center as 21318  
long as the proposed school will be located in a county within the 21319  
territory of the service center or in a county contiguous to such 21320  
county; 21321

(e) A sponsoring authority designated by the board of 21322  
trustees of any of the thirteen state universities listed in 21323  
section 3345.011 of the Revised Code or the board of trustees 21324  
itself as long as a mission of the proposed school to be specified 21325  
in the contract under division (A)(2) of section 3314.03 of the 21326  
Revised Code and as approved by the department of education under 21327  
division (B)(2) of section 3314.015 of the Revised Code will be 21328  
the practical demonstration of teaching methods, educational 21329  
technology, or other teaching practices that are included in the 21330  
curriculum of the university's teacher preparation program 21331  
approved by the state board of education; 21332

(f) Any qualified tax-exempt entity under section 501(c)(3) 21333  
of the Internal Revenue Code as long as all of the following 21334  
conditions are satisfied: 21335

(i) The entity has been in operation for at least five years 21336  
prior to applying to be a community school sponsor. 21337

(ii) The entity has assets of at least five hundred thousand 21338  
dollars. 21339

(iii) The department of education has determined that the 21340  
entity is an education-oriented entity under division (B)(3) of 21341  
section 3314.015 of the Revised Code. 21342

Until July 1, 2005, any entity described in division 21343  
(C)(1)(f) of this section may sponsor only schools that formerly 21344  
were sponsored by the state board of education under division 21345  
(C)(1)(d) of this section, as it existed prior to April 8, 2003. 21346  
After July 1, 2005, such entity may sponsor any new or existing 21347  
school. 21348



Any entity described in division (C)(1) of this section may 21349  
enter into a preliminary agreement pursuant to division (C)(2) of 21350  
this section with the proposing person or group. 21351

(2) A preliminary agreement indicates the intention of an 21352  
entity described in division (C)(1) of this section to sponsor the 21353  
community school. A proposing person or group that has such a 21354  
preliminary agreement may proceed to finalize plans for the 21355  
school, establish a governing authority as described in division 21356  
(E) of this section for the school, and negotiate a contract with 21357  
the entity. Provided the proposing person or group adheres to the 21358  
preliminary agreement and all provisions of this chapter, the 21359  
entity shall negotiate in good faith to enter into a contract in 21360  
accordance with section 3314.03 of the Revised Code. 21361

(3) A new start-up school that is established in a school 21362  
district while that district is either in a state of academic 21363  
emergency or in a state of academic watch under section 3302.03 of 21364  
the Revised Code may continue in existence once the school 21365  
district is no longer in a state of academic emergency or academic 21366  
watch, provided there is a valid contract between the school and a 21367  
sponsor. 21368

(4) A copy of every preliminary agreement entered into under 21369  
this division shall be filed with the superintendent of public 21370  
instruction. 21371

(D) A majority vote of the board of a sponsoring entity and a 21372  
majority vote of the members of the governing authority of a 21373  
community school shall be required to adopt a contract and convert 21374  
the public school to a community school or establish the new 21375  
start-up school. Up to the statewide limit prescribed in section 21376  
3314.013 of the Revised Code, an unlimited number of community 21377  
schools may be established in any school district provided that a 21378  
contract is entered into for each community school pursuant to 21379

this chapter. 21380

(E) As used in this division, "immediate relatives" are 21381  
limited to spouses, children, parents, grandparents, siblings, and 21382  
in-laws. 21383

Each new start-up community school established under this 21384  
chapter shall be under the direction of a governing authority 21385  
which shall consist of a board of not less than five individuals 21386  
who are not owners or employees, or immediate relatives of owners 21387  
or employees, of any for-profit firm that operates or manages a 21388  
school for the governing authority. 21389

No person shall serve on the governing authority or operate 21390  
the community school under contract with the governing authority 21391  
so long as the person owes the state any money or is in a dispute 21392  
over whether the person owes the state any money concerning the 21393  
operation of a community school that has closed. 21394

(F) Nothing in this chapter shall be construed to permit the 21395  
establishment of a community school in more than one school 21396  
district under the same contract. 21397

(G) A new start-up school that is established prior to the 21398  
effective date of this amendment in an urban school district that 21399  
is not also a big-eight school district may continue to operate 21400  
after the effective date of this amendment and the contract 21401  
between the school's governing authority and the school's sponsor 21402  
may be renewed, as provided under this chapter, after the 21403  
effective date of this amendment, but no additional new start-up 21404  
schools may be established in such a district unless the district 21405  
is a challenged school district as defined in this section as it 21406  
exists on and after the effective date of this amendment. 21407

Sec. 3314.033. (A) Not later than ninety days after the 21408  
effective date of this section, the state board of education shall 21409

adopt rules in accordance with Chapter 119. of the Revised Code 21410  
establishing standards governing the operation of internet- or 21411  
computer-based community schools, as defined in section 3314.02 of 21412  
the Revised Code, and other educational courses delivered 21413  
primarily via electronic media. 21414

(B) Each internet- or computer-based community school in 21415  
operation on or after the effective date of this section shall 21416  
comply with the standards adopted by the state board under 21417  
division (A) of this section regardless of whether the school's 21418  
contract with its sponsor contains a stipulation requiring such 21419  
compliance. 21420

**Sec. 3314.041.** The governing authority of each community 21421  
school and any operator of such school shall ~~place in a~~ 21422  
~~conspicuous manner in all documents that are distributed~~ 21423  
distribute to parents of students of the school ~~or to the general~~ 21424  
~~public~~ upon their enrollment in the school the following statement 21425  
in writing: 21426

"The ..... (here fill in name of the school) school 21427  
is a community school established under Chapter 3314. of the 21428  
Revised Code. The school is a public school and students enrolled 21429  
in and attending the school are required to take proficiency tests 21430  
and other examinations prescribed by law. In addition, there may 21431  
be other requirements for students at the school that are 21432  
prescribed by law. Students who have been excused from the 21433  
compulsory attendance law for the purpose of home education as 21434  
defined by the Administrative Code shall no longer be excused for 21435  
that purpose upon their enrollment in a community school. For more 21436  
information about this matter contact the school administration or 21437  
the Ohio Department of Education." 21438

**Sec. 3314.07.** (A) The expiration of the contract for a 21439

community school between a sponsor and a school shall be the date 21440  
provided in the contract. A successor contract may be entered into 21441  
pursuant to division (E) of section 3314.03 of the Revised Code 21442  
unless the contract is terminated or not renewed pursuant to this 21443  
section. 21444

(B)(1) A sponsor may choose not to renew a contract at its 21445  
expiration or may choose to terminate a contract prior to its 21446  
expiration for any of the following reasons: 21447

(a) Failure to meet student performance requirements stated 21448  
in the contract; 21449

(b) Failure to meet generally accepted standards of fiscal 21450  
management; 21451

(c) Violation of any provision of the contract or applicable 21452  
state or federal law; 21453

(d) Other good cause. 21454

(2) A sponsor may choose to terminate a contract prior to its 21455  
expiration if the sponsor has suspended the operation of the 21456  
contract under section 3314.072 of the Revised Code. 21457

(3) At least ninety days prior to the termination or 21458  
nonrenewal of a contract, the sponsor shall notify the school of 21459  
the proposed action in writing. The notice shall include the 21460  
reasons for the proposed action in detail, the effective date of 21461  
the termination or nonrenewal, and a statement that the school 21462  
may, within fourteen days of receiving the notice, request an 21463  
informal hearing before the sponsor. Such request must be in 21464  
writing. The informal hearing shall be held within seventy days of 21465  
the receipt of a request for the hearing. Promptly following the 21466  
informal hearing, the sponsor shall issue a written decision 21467  
either affirming or rescinding the decision to terminate or not 21468  
renew the contract. 21469

(4) A decision by the sponsor to terminate a contract may be 21470  
appealed to the state board of education. The decision by the 21471  
state board pertaining to an appeal under this division is final. 21472  
If the sponsor is the state board, its decision to terminate a 21473  
contract under division (B)(3) of this section shall be final. 21474

(5) The termination of a contract under this section shall be 21475  
effective upon the occurrence of the later of the following 21476  
events: 21477

(a) Ninety days following the date the sponsor notifies the 21478  
school of its decision to terminate the contract as prescribed in 21479  
division (B)(3) of this section; 21480

(b) If an informal hearing is requested under division (B)(3) 21481  
of this section and as a result of that hearing the sponsor 21482  
affirms its decision to terminate the contract, the effective date 21483  
of the termination specified in the notice issued under division 21484  
(B)(3) of this section, or if that decision is appealed to the 21485  
state board under division (B)(4) of this section and the state 21486  
board affirms that decision, the date established in the 21487  
resolution of the state board affirming the sponsor's decision. 21488

(6) Any community school whose contract is terminated under 21489  
this division shall not enter into a contract with any other 21490  
sponsor. 21491

(C) A child attending a community school whose contract has 21492  
been terminated, nonrenewed, or suspended or that closes for any 21493  
reason shall be admitted to the schools of the district in which 21494  
the child is entitled to attend under section 3313.64 or 3313.65 21495  
of the Revised Code. Any deadlines established for the purpose of 21496  
admitting students under section 3313.97 or 3313.98 of the Revised 21497  
Code shall be waived for students to whom this division pertains. 21498

(D) If a community school does not intend to renew a contract 21499  
with its sponsor, the community school shall notify its sponsor in 21500

writing of that fact at least one hundred eighty days prior to the 21501  
expiration of the contract. Such a community school may enter into 21502  
a contract with a new sponsor in accordance with section 3314.03 21503  
of the Revised Code upon the expiration of the previous contract. 21504

(E) A sponsor of a community school and the officers, 21505  
directors, or employees of such a sponsor are not liable in 21506  
damages in a tort or other civil action for harm allegedly arising 21507  
from either of the following: 21508

(1) A failure of the community school or any of its officers, 21509  
directors, or employees to perform any statutory or common law 21510  
duty or responsibility or any other legal obligation; 21511

(2) An action or omission of the community school or any of 21512  
its officers, directors, or employees that results in harm. 21513

~~(E)~~(F) As used in this section: 21514

(1) "Harm" means injury, death, or loss to person or 21515  
property. 21516

(2) "Tort action" means a civil action for damages for 21517  
injury, death, or loss to person or property other than a civil 21518  
action for damages for a breach of contract or another agreement 21519  
between persons. 21520

**Sec. 3314.08.** (A) As used in this section: 21521

(1) "Base formula amount" means the amount specified as such 21522  
in a community school's financial plan for a school year pursuant 21523  
to division (A)(15) of section 3314.03 of the Revised Code. 21524

(2) "Cost-of-doing-business factor" has the same meaning as 21525  
in section 3317.02 of the Revised Code. 21526

(3) "IEP" means an individualized education program as 21527  
defined in section 3323.01 of the Revised Code. 21528

(4) "Applicable special education weight" means the multiple 21529

specified in section 3317.013 of the Revised Code for a handicap 21530  
described in that section. 21531

(5) "Applicable vocational education weight" means: 21532

(a) For a student enrolled in vocational education programs 21533  
or classes described in division (A) of section 3317.014 of the 21534  
Revised Code, the multiple specified in that division; 21535

(b) For a student enrolled in vocational education programs 21536  
or classes described in division (B) of section 3317.014 of the 21537  
Revised Code, the multiple specified in that division. 21538

(6) "Entitled to attend school" means entitled to attend 21539  
school in a district under section 3313.64 or 3313.65 of the 21540  
Revised Code. 21541

(7) A community school student is "included in the DPIA 21542  
student count" of a school district if the student is entitled to 21543  
attend school in the district and: 21544

(a) For school years prior to fiscal year 2004, the student's 21545  
family receives assistance under the Ohio works first program. 21546

(b) For school years in and after fiscal year 2004, the 21547  
student's family income does not exceed the federal poverty 21548  
guidelines, as defined in section 5101.46 of the Revised Code, and 21549  
the student's family receives family assistance, as defined in 21550  
section 3317.029 of the Revised Code. 21551

(8) "DPIA reduction factor" means the percentage figure, if 21552  
any, for reducing the per pupil amount of disadvantaged pupil 21553  
impact aid a community school is entitled to receive pursuant to 21554  
divisions (D)(5) and (6) of this section in any year, as specified 21555  
in the school's financial plan for the year pursuant to division 21556  
(A)(15) of section 3314.03 of the Revised Code. 21557

(9) "All-day kindergarten" has the same meaning as in section 21558  
3317.029 of the Revised Code. 21559

(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 both of the following:

(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district who are enrolled in grades one through twelve in a community school established under this chapter, the number of students entitled to attend school in the district who are enrolled in kindergarten in a community school, the number of those kindergartners who are enrolled in all-day kindergarten in their community school, and for each child, the community school in which the child is enrolled.

(2) The governing authority of each community school established under this chapter to annually report all of the following:

(a) The number of students enrolled in grades one through twelve and the number of students enrolled in kindergarten in the school who are not receiving special education and related services pursuant to an IEP;

(b) The number of enrolled students in grades one through twelve and the number of enrolled students in kindergarten, who are receiving special education and related services pursuant to



an IEP;	21591
(c) The number of students reported under division (B)(2)(b) of this section receiving special education and related services pursuant to an IEP for a handicap described in each of divisions (A) to (F) of section 3317.013 of the Revised Code;	21592 21593 21594 21595
(d) The full-time equivalent number of students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code that are provided by the community school;	21596 21597 21598 21599 21600
(e) <del>One-fourth</del> <u>Ten per cent</u> of the number of students reported under divisions (B)(2)(a) and (b) of this section who are not reported under division (B)(2)(d) of this section but who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code at a joint vocational school district under a contract between the community school and the joint vocational school district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district;	21601 21602 21603 21604 21605 21606 21607 21608 21609 21610
(f) The number of enrolled preschool handicapped students receiving special education services in a state-funded unit;	21611 21612
(g) The community school's base formula amount;	21613
(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school;	21614 21615
(i) Any DPIA reduction factor that applies to a school year.	21616
(C) From the <del>payments</del> <u>SF-3 payment</u> made to a city, exempted village, or local school district <del>under Chapter 3317. of the Revised Code</del> and, if necessary, <u>from the payment made to the district under</u> sections <del>321.14</del> <u>321.24</u> and 323.156 of the Revised	21617 21618 21619 21620

Code, the department of education shall annually subtract all the 21621  
sum of the following\* amounts described in divisions (C)(1) to (5) 21622  
of this section. However, the aggregate amount deducted under this 21623  
division shall not exceed the sum of the district's SF-3 payment 21624  
and its payment under sections 321.24 and 323.156 of the Revised 21625  
Code. 21626

(1) An amount equal to the sum of the amounts obtained when, 21627  
for each community school where the district's students are 21628  
enrolled, the number of the district's students reported under 21629  
divisions (B)(2)(a), (b), and (e) of this section who are enrolled 21630  
in grades one through twelve, and one-half the number of students 21631  
reported under those divisions who are enrolled in kindergarten, 21632  
in that community school is multiplied by the base formula amount 21633  
of that community school as adjusted by the school district's 21634  
cost-of-doing-business factor. 21635

(2) The sum of the amounts calculated under divisions 21636  
(C)(2)(a) and (b) of this section: 21637

(a) For each of the district's students reported under 21638  
division (B)(2)(c) of this section as enrolled in a community 21639  
school in grades one through twelve and receiving special 21640  
education and related services pursuant to an IEP for a handicap 21641  
described in section 3317.013 of the Revised Code, the product of 21642  
the applicable special education weight times the community 21643  
school's base formula amount; 21644

(b) For each of the district's students reported under 21645  
division (B)(2)(c) of this section as enrolled in kindergarten in 21646  
a community school and receiving special education and related 21647  
services pursuant to an IEP for a handicap described in section 21648  
3317.013 of the Revised Code, one-half of the amount calculated as 21649  
prescribed in division (C)(2)(a) of this section. 21650

(3) For each of the district's students reported under 21651

division (B)(2)(d) of this section for whom payment is made under 21652  
division (D)(4) of this section, the amount of that payment; 21653

(4) An amount equal to the sum of the amounts obtained when, 21654  
for each community school where the district's students are 21655  
enrolled, the number of the district's students enrolled in that 21656  
community school who are included in the district's DPIA student 21657  
count is multiplied by the per pupil amount of disadvantaged pupil 21658  
impact aid the school district receives that year pursuant to 21659  
division (B) or (C) of section 3317.029 of the Revised Code, as 21660  
adjusted by any DPIA reduction factor of that community school. If 21661  
the district receives disadvantaged pupil impact aid under 21662  
division (B) of that section, the per pupil amount of that aid is 21663  
the quotient of the amount the district received under that 21664  
division divided by the district's DPIA student count, as defined 21665  
in that section. If the district receives disadvantaged pupil 21666  
impact aid under division (C) of section 3317.029 of the Revised 21667  
Code, the per pupil amount of that aid is the per pupil dollar 21668  
amount prescribed for the district in division (C)(1) or (2) of 21669  
that section. 21670

(5) An amount equal to the sum of the amounts obtained when, 21671  
for each community school where the district's students are 21672  
enrolled, the district's per pupil amount of aid received under 21673  
division (E) of section 3317.029 of the Revised Code, as adjusted 21674  
by any DPIA reduction factor of the community school, is 21675  
multiplied by the sum of the following: 21676

(a) The number of the district's students reported under 21677  
division (B)(2)(a) of this section who are enrolled in grades one 21678  
to three in that community school and who are not receiving 21679  
special education and related services pursuant to an IEP; 21680

(b) One-half of the district's students who are enrolled in 21681  
all-day or any other kindergarten class in that community school 21682  
and who are not receiving special education and related services 21683

pursuant to an IEP; 21684

(c) One-half of the district's students who are enrolled in 21685  
all-day kindergarten in that community school and who are not 21686  
receiving special education and related services pursuant to an 21687  
IEP. 21688

The district's per pupil amount of aid under division (E) of 21689  
section 3317.029 of the Revised Code is the quotient of the amount 21690  
the district received under that division divided by the 21691  
district's kindergarten through third grade ADM, as defined in 21692  
that section. 21693

(D) The department shall annually pay to a community school 21694  
established under this chapter ~~all the sum of the following:~~ 21695  
amounts described in divisions (D)(1) to (6) of this section. 21696  
However, the sum of the payments to all community schools under 21697  
divisions (D)(1), (2), (4), (5), and (6) of this section for the 21698  
students entitled to attend school in any particular school 21699  
district shall not exceed the sum of that district's SF-3 payment 21700  
and its payment under sections 321.24 and 323.156 of the Revised 21701  
Code. If the sum of the payments calculated under those divisions 21702  
for the students entitled to attend school in a particular school 21703  
district exceeds the sum of that district's SF-3 payment and its 21704  
payment under sections 321.24 and 323.156 of the Revised Code, the 21705  
department shall calculate and apply a proration factor to the 21706  
payments to all community schools under those divisions for the 21707  
students entitled to attend school in that district. 21708

(1) An amount equal to the sum of the amounts obtained when 21709  
the number of students enrolled in grades one through twelve, plus 21710  
one-half of the kindergarten students in the school, reported 21711  
under divisions (B)(2)(a), (b), and (e) of this section who are 21712  
not receiving special education and related services pursuant to 21713  
an IEP for a handicap described in section 3317.013 of the Revised 21714  
Code is multiplied by the community school's base formula amount, 21715

as adjusted by the cost-of-doing-business factor of the school	21716
district in which the student is entitled to attend school;	21717
(2) The greater of the following:	21718
(a) The aggregate amount that the department paid to the	21719
community school in fiscal year 1999 for students receiving	21720
special education and related services pursuant to IEPs, excluding	21721
federal funds and state disadvantaged pupil impact aid funds;	21722
(b) The sum of the amounts calculated under divisions	21723
(D)(2)(b)(i) and (ii) of this section:	21724
(i) For each student reported under division (B)(2)(c) of	21725
this section as enrolled in the school in grades one through	21726
twelve and receiving special education and related services	21727
pursuant to an IEP for a handicap described in section 3317.013 of	21728
the Revised Code, the following amount:	21729
(the community school's base formula amount	21730
X the cost-of-doing-business factor	21731
of the district where the student	21732
is entitled to attend school) +	21733
(the applicable special education weight X	21734
the community school's base formula amount);	21735
(ii) For each student reported under division (B)(2)(c) of	21736
this section as enrolled in kindergarten and receiving special	21737
education and related services pursuant to an IEP for a handicap	21738
described in section 3317.013 of the Revised Code, one-half of the	21739
amount calculated under the formula prescribed in division	21740
(D)(2)(b)(i) of this section.	21741
(3) An amount received from federal funds to provide special	21742
education and related services to students in the community	21743
school, as determined by the superintendent of public instruction.	21744
(4) For each student reported under division (B)(2)(d) of	21745
this section as enrolled in vocational education programs or	21746

classes that are described in section 3317.014 of the Revised Code, are provided by the community school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, an amount equal to the applicable vocational education weight times the community school's base formula amount times the percentage of time the student spends in the vocational education programs or classes.

(5) 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 number of that district's students enrolled in the community school who are included in the district's DPIA student count is multiplied by the per pupil amount of disadvantaged pupil impact aid that school district receives that year pursuant to division (B) or (C) of section 3317.029 of the Revised Code, as adjusted by any DPIA reduction factor of the community school. The per pupil amount of aid shall be determined as described in division (C)(4) of this section.

(6) 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 aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any DPIA reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services

pursuant to an IEP; 21779

(c) One-half of the district's students who are enrolled in 21780  
all-day kindergarten in that community school and who are not 21781  
receiving special education and related services pursuant to an 21782  
IEP. 21783

The district's per pupil amount of aid under division (E) of 21784  
section 3317.029 of the Revised Code shall be determined as 21785  
described in division (C)(5) of this section. 21786

(E)(1) If a community school's costs for a fiscal year for a 21787  
student receiving special education and related services pursuant 21788  
to an IEP for a handicap described in divisions (B) to (F) of 21789  
section 3317.013 of the Revised Code exceed the threshold 21790  
catastrophic cost for serving the student as specified in division 21791  
(C)(3)(b) of section 3317.022 of the Revised Code, the school may 21792  
submit to the superintendent of public instruction documentation, 21793  
as prescribed by the superintendent, of all its costs for that 21794  
student. Upon submission of documentation for a student of the 21795  
type and in the manner prescribed, the department shall pay to the 21796  
community school an amount equal to the school's costs for the 21797  
student in excess of the threshold catastrophic costs. 21798

(2) The community school shall only report under division 21799  
(E)(1) of this section, and the department shall only pay for, the 21800  
costs of educational expenses and the related services provided to 21801  
the student in accordance with the student's individualized 21802  
education program. Any legal fees, court costs, or other costs 21803  
associated with any cause of action relating to the student may 21804  
not be included in the amount. 21805

(F) A community school may apply to the department of 21806  
education for preschool handicapped or gifted unit funding the 21807  
school would receive if it were a school district. Upon request of 21808  
its governing authority, a community school that received unit 21809

funding as a school district-operated school before it became a 21810  
community school shall retain any units awarded to it as a school 21811  
district-operated school provided the school continues to meet 21812  
eligibility standards for the unit. 21813

A community school shall be considered a school district and 21814  
its governing authority shall be considered a board of education 21815  
for the purpose of applying to any state or federal agency for 21816  
grants that a school district may receive under federal or state 21817  
law or any appropriations act of the general assembly. The 21818  
governing authority of a community school may apply to any private 21819  
entity for additional funds. 21820

(G) A board of education sponsoring a community school may 21821  
utilize local funds to make enhancement grants to the school or 21822  
may agree, either as part of the contract or separately, to 21823  
provide any specific services to the community school at no cost 21824  
to the school. 21825

(H) A community school may not levy taxes or issue bonds 21826  
secured by tax revenues. 21827

(I) No community school shall charge tuition for the 21828  
enrollment of any student. 21829

(J)(1)(a) A community school may borrow money to pay any 21830  
necessary and actual expenses of the school in anticipation of the 21831  
receipt of any portion of the payments to be received by the 21832  
school pursuant to division (D) of this section. The school may 21833  
issue notes to evidence such borrowing . The proceeds of the notes 21834  
shall be used only for the purposes for which the anticipated 21835  
receipts may be lawfully expended by the school. 21836

(b) A school may also borrow money for a term not to exceed 21837  
fifteen years for the purpose of acquiring facilities. 21838

(2) Except for any amount guaranteed under section 3318.50 of 21839  
the Revised Code, the state is not liable for debt incurred by the 21840



governing authority of a community school. 21841

(K) For purposes of determining the number of students for 21842  
which divisions (D)(5) and (6) of this section applies in any 21843  
school year, a community school may submit to the department of 21844  
job and family services, no later than the first day of March, a 21845  
list of the students enrolled in the school. For each student on 21846  
the list, the community school shall indicate the student's name, 21847  
address, and date of birth and the school district where the 21848  
student is entitled to attend school. Upon receipt of a list under 21849  
this division, the department of job and family services shall 21850  
determine, for each school district where one or more students on 21851  
the list is entitled to attend school, the number of students 21852  
residing in that school district who were included in the 21853  
department's report under section 3317.10 of the Revised Code. The 21854  
department shall make this determination on the basis of 21855  
information readily available to it. Upon making this 21856  
determination and no later than ninety days after submission of 21857  
the list by the community school, the department shall report to 21858  
the state department of education the number of students on the 21859  
list who reside in each school district who were included in the 21860  
department's report under section 3317.10 of the Revised Code. In 21861  
complying with this division, the department of job and family 21862  
services shall not report to the state department of education any 21863  
personally identifiable information on any student. 21864

(L) The department of education shall adjust the amounts 21865  
subtracted and paid under divisions (C) and (D) of this section to 21866  
reflect any enrollment of students in community schools for less 21867  
than the equivalent of a full school year. The state board of 21868  
education within ninety days after ~~the effective date of this~~ 21869  
~~amendment~~ April 8, 2003, shall adopt in accordance with Chapter 21870  
119. of the Revised Code rules governing the payments to community 21871  
schools under this section including initial payments in a school 21872

year and adjustments and reductions made in subsequent periodic 21873  
payments to community schools and corresponding deductions from 21874  
school district accounts as provided under divisions (C) and (D) 21875  
of this section. For purposes of this section: 21876

(1) A student shall be considered enrolled in the community 21877  
school for any portion of the school year the student is 21878  
participating at a college under Chapter 3365. of the Revised 21879  
Code. 21880

(2) A student shall be considered to be enrolled in a 21881  
community school during a school year for the period of time 21882  
between the date on which the school both has received 21883  
documentation of the student's enrollment from a parent and has 21884  
commenced participation in learning opportunities as defined in 21885  
the contract with the sponsor. For purposes of applying this 21886  
division to a community school student, "learning opportunities" 21887  
shall be defined in the contract, which shall describe both 21888  
classroom-based and non-classroom-based learning opportunities and 21889  
shall be in compliance with criteria and documentation 21890  
requirements for student participation which shall be established 21891  
by the department. Any student's instruction time in 21892  
non-classroom-based learning opportunities shall be certified by 21893  
an employee of the community school. A student's enrollment shall 21894  
be considered to cease on the date on which any of the following 21895  
occur: 21896

(a) The community school receives documentation from a parent 21897  
terminating enrollment of the student. 21898

(b) The community school is provided documentation of a 21899  
student's enrollment in another public or private school. 21900

(c) The community school ceases to offer learning 21901  
opportunities to the student pursuant to the terms of the contract 21902  
with the sponsor or the operation of any provision of this 21903

chapter. 21904

(3) A student's percentage of full-time equivalency shall be 21905  
considered to be the percentage the hours of learning opportunity 21906  
offered to that student is of nine hundred and twenty hours. 21907

(M) The department of education shall reduce the amounts paid 21908  
under division (D) of this section to reflect payments made to 21909  
colleges under division (B) of section 3365.07 of the Revised 21910  
Code. 21911

(N)(1) No student shall be considered enrolled in any 21912  
internet- or computer-based community school unless ~~the~~ both of 21913  
the following conditions are satisfied: 21914

(a) The student possesses or has been provided with all 21915  
required hardware and software materials and all such materials 21916  
are fully operational and the so that the student is capable of 21917  
fully participating in the learning opportunities specified in the 21918  
contract between the school and the school's sponsor as required 21919  
by division (A)(23) of section 3314.03 of the Revised Code; 21920

(b) The school is in compliance with division (A)(1) or (2) 21921  
of section 3314.032 of the Revised Code, relative to such student. 21922  
~~In~~ 21923

(2) In accordance with policies adopted jointly by the 21924  
superintendent of public instruction and the auditor of state, the 21925  
department shall reduce the amounts otherwise payable under 21926  
division (D) of this section to any internet- or computer-based 21927  
community school that includes in its program the provision of 21928  
computer hardware and software materials to each student, if such 21929  
hardware and software materials have not been delivered, 21930  
installed, and activated for all students in a timely manner or 21931  
other educational materials or services have not been provided 21932  
according to the contract between the individual community school 21933  
and its sponsor. 21934

The superintendent of public instruction and the auditor of state shall jointly establish a method for auditing any community school to which this division pertains to ensure compliance with this section. 21935  
21936  
21937  
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The superintendent, auditor of state, and the governor shall jointly make recommendations to the general assembly for legislative changes that may be required to assure fiscal and academic accountability for such internet- or computer-based schools. 21939  
21940  
21941  
21942  
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(O)(1) If the department determines that a review of a community school's enrollment is necessary, such review shall be completed and written notice of the findings shall be provided to the governing authority of the community school and its sponsor within ninety days of the end of the community school's fiscal year, unless extended for a period not to exceed thirty additional days for one of the following reasons: 21944  
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21946  
21947  
21948  
21949  
21950

(a) The department and the community school mutually agree to the extension. 21951  
21952

(b) Delays in data submission caused by either a community school or its sponsor. 21953  
21954

(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes moneys to the state, the following procedure shall apply: 21955  
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21957  
21958  
21959

(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee. 21960  
21961  
21962

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an 21963  
21964

appeal and shall issue a decision within fifteen days of the 21965  
conclusion of the hearing. 21966

(c) If the board has enlisted a designee to conduct the 21967  
hearing, the designee shall certify its decision to the board. The 21968  
board may accept the decision of the designee or may reject the 21969  
decision of the designee and issue its own decision on the matter. 21970

(d) Any decision made by the board under this division is 21971  
final. 21972

(3) If it is decided that the community school owes moneys to 21973  
the state, the department shall deduct such amount from the 21974  
school's future payments in accordance with guidelines issued by 21975  
the superintendent of public instruction. 21976

(P) Beginning July 1, 2007, each community school shall 21977  
utilize the student management record system prescribed by the 21978  
department as its student administration software package to 21979  
manage and report all data required to be reported to the 21980  
department, as a condition to receiving any payment under this 21981  
section. 21982

Sec. 3314.083. If the department of education pays a joint 21983  
vocational school district under division (G)(4) of section 21984  
3317.16 of the Revised Code for excess costs of providing special 21985  
education and related services to a handicapped student who is 21986  
enrolled in a community school, as calculated under division 21987  
(G)(2) of that section, the department shall deduct the amount of 21988  
that payment from the amount calculated for payment to the 21989  
community school under section 3314.08 of the Revised Code. 21990

**Sec. 3314.17.** (A) Each community school established under 21991  
this chapter shall participate in the statewide education 21992  
management information system established under section 3301.0714 21993  
of the Revised Code. All provisions of that section and the rules 21994

adopted under that section apply to each community school as if it 21995  
were a school district, except as modified for community schools 21996  
under division (B) of this section. 21997

(B) The rules adopted by the state board of education under 21998  
section 3301.0714 of the Revised Code may distinguish methods and 21999  
timelines for community schools to annually report data, which 22000  
methods and timelines differ from those prescribed for school 22001  
districts. Any methods and timelines prescribed for community 22002  
schools shall be appropriate to the academic schedule and 22003  
financing of community schools. The guidelines, however, shall not 22004  
modify the actual data required to be reported under that section. 22005

(C) Each fiscal officer appointed under section 3314.011 of 22006  
the Revised Code is responsible for annually reporting the 22007  
community school's data under section 3301.0714 of the Revised 22008  
Code. If the superintendent of public instruction determines that 22009  
a community school fiscal officer has willfully failed to report 22010  
data or has willfully reported erroneous, inaccurate, or 22011  
incomplete data in any year, or has negligently reported 22012  
erroneous, inaccurate, or incomplete data in the current and any 22013  
previous year, the superintendent may impose a civil penalty of 22014  
one hundred dollars on the fiscal officer after providing the 22015  
officer with notice and an opportunity for a hearing in accordance 22016  
with Chapter 119. of the Revised Code. The superintendent's 22017  
authority to impose civil penalties under this division does not 22018  
preclude the state board of education from suspending or revoking 22019  
the license of a community school employee under division (N) of 22020  
section 3301.0714 of the Revised Code. 22021

(D) No community school shall acquire, change, or update its 22022  
student administration software package to manage and report data 22023  
required to be reported to the department unless it converts to 22024  
the student management record system prescribed by the department. 22025

Sec. 3316.08. During a school district's fiscal emergency 22026  
period, the auditor of state shall determine annually, or at any 22027  
other time upon request of the financial planning and supervision 22028  
commission, whether the school district will incur an operating 22029  
deficit. If the auditor of state determines that a school district 22030  
will incur an operating deficit, the auditor of state shall 22031  
certify that determination to the superintendent of public 22032  
instruction, the financial planning and supervision commission, 22033  
and the board of education of the school district. Upon receiving 22034  
the auditor of state's certification, the ~~board of education or~~ 22035  
~~commission shall adopt a resolution to submit a ballot question~~ 22036  
~~proposing the levy of a tax requesting that the board of education~~ 22037  
~~work with the county auditor or tax commissioner to estimate the~~ 22038  
~~amount and rate of a tax levy that is needed~~ under section 22039  
5705.194 or 5705.21 or Chapter 5748. of the Revised Code to 22040  
produce a positive fund balance not later than the fifth year of 22041  
the five-year forecast submitted under section 5705.391 of the 22042  
Revised Code. ~~Except~~ 22043

The board of education shall recommend to the commission 22044  
whether the board supports or opposes a tax levy under section 22045  
5705.194 or 5705.21 or Chapter 5748. of the Revised Code and shall 22046  
provide supporting documentation to the commission of its 22047  
recommendation. 22048

After considering the board of education's recommendation and 22049  
supporting documentation, the commission shall adopt a resolution 22050  
to either submit a ballot question proposing a tax levy or not to 22051  
submit such a question. 22052

Except as otherwise provided in this division, the tax shall 22053  
be levied in the manner prescribed for a tax levied under section 22054  
5705.194 or 5705.21 or under Chapter 5748. of the Revised Code. 22055  
~~The~~ If the commission decides that a tax shall should be levied, 22056

~~the tax shall be levied for the purpose of paying current~~ 22057  
~~operating expenses of the school district. The question shall~~ 22058  
~~propose that the tax be levied at the rate required to produce~~ 22059  
~~annual revenue sufficient to eliminate the operating deficit as~~ 22060  
~~certified by the auditor of state and to repay outstanding loans~~ 22061  
~~or other obligations incurred by the board of education for the~~ 22062  
~~purpose of reducing or eliminating operating deficits, as~~ 22063  
~~determined by the financial planning and supervision commission.~~ 22064  
The rate of a tax levied under section 5705.194 or 5705.21 of the 22065  
Revised Code shall be determined by the county auditor, and the 22066  
rate of a tax levied under section 5748.02 or 5748.08 of the 22067  
Revised Code shall be determined by the tax commissioner, upon the 22068  
request of the commission. The commission, in consultation with 22069  
the board of education, shall determine the election at which the 22070  
question of the tax shall appear on the ballot, and the ~~board of~~ 22071  
~~education or~~ commission shall submit a copy of its resolution to 22072  
the board of elections not later than seventy-five days prior to 22073  
the day of that election. The board of elections conducting the 22074  
election shall certify the results of the election to the board of 22075  
education and to the financial planning and supervision 22076  
commission. 22077

**Sec. 3317.01.** As used in this section and section 3317.011 of 22078  
the Revised Code, "school district," unless otherwise specified, 22079  
means any city, local, exempted village, joint vocational, or 22080  
cooperative education school district and any educational service 22081  
center. 22082

This chapter shall be administered by the state board of 22083  
education. The superintendent of public instruction shall 22084  
calculate the amounts payable to each school district and shall 22085  
certify the amounts payable to each eligible district to the 22086  
treasurer of the district as provided by this chapter. No moneys 22087  
shall be distributed pursuant to this chapter without the approval 22088



of the controlling board. 22089

The state board of education shall, in accordance with 22090  
appropriations made by the general assembly, meet the financial 22091  
obligations of this chapter. 22092

Annually, the department of education shall calculate and 22093  
report to each school district the district's total state and 22094  
local funds for providing an adequate basic education to the 22095  
district's nonhandicapped students, utilizing the determination in 22096  
section 3317.012 of the Revised Code. In addition, the department 22097  
shall calculate and report separately for each school district the 22098  
district's total state and local funds for providing an adequate 22099  
education for its handicapped students, utilizing the 22100  
determinations in both sections 3317.012 and 3317.013 of the 22101  
Revised Code. 22102

Not later than the thirty-first day of August of each fiscal 22103  
year, the department of education shall provide to each school 22104  
district and county MR/DD board a preliminary estimate of the 22105  
amount of funding that the department calculates the district will 22106  
receive under each of divisions (C)(1) and (4) of section 3317.022 22107  
of the Revised Code. No later than the first day of December of 22108  
each fiscal year, the department shall update that preliminary 22109  
estimate. 22110

Moneys distributed pursuant to this chapter shall be 22111  
calculated and paid on a fiscal year basis, beginning with the 22112  
first day of July and extending through the thirtieth day of June. 22113  
The moneys appropriated for each fiscal year shall be distributed 22114  
at least monthly to each school district unless otherwise provided 22115  
for. The state board shall submit a yearly distribution plan to 22116  
the controlling board at its first meeting in July. The state 22117  
board shall submit any proposed midyear revision of the plan to 22118  
the controlling board in January. Any year-end revision of the 22119  
plan shall be submitted to the controlling board in June. If 22120

moneys appropriated for each fiscal year are distributed other 22121  
than monthly, such distribution shall be on the same basis for 22122  
each school district. 22123

The total amounts paid each month shall constitute, as nearly 22124  
as possible, one-twelfth of the total amount payable for the 22125  
entire year. Payments made during the first six months of the 22126  
fiscal year may be based on an estimate of the amounts payable for 22127  
the entire year. Payments made in the last six months shall be 22128  
based on the final calculation of the amounts payable to each 22129  
school district for that fiscal year. Payments made in the last 22130  
six months may be adjusted, if necessary, to correct the amounts 22131  
distributed in the first six months, and to reflect enrollment 22132  
increases when such are at least three per cent. Except as 22133  
otherwise provided, payments under this chapter shall be made only 22134  
to those school districts in which: 22135

(A) The school district, except for any educational service 22136  
center and any joint vocational or cooperative education school 22137  
district, levies for current operating expenses at least twenty 22138  
mills. Levies for joint vocational or cooperative education school 22139  
districts or county school financing districts, limited to or to 22140  
the extent apportioned to current expenses, shall be included in 22141  
this qualification requirement. School district income tax levies 22142  
under Chapter 5748. of the Revised Code, limited to or to the 22143  
extent apportioned to current operating expenses, shall be 22144  
included in this qualification requirement to the extent 22145  
determined by the tax commissioner under division (D) of section 22146  
3317.021 of the Revised Code. 22147

(B) The school year next preceding the fiscal year for which 22148  
such payments are authorized meets the requirement of section 22149  
3313.48 or 3313.481 of the Revised Code, with regard to the 22150  
minimum number of days or hours school must be open for 22151  
instruction with pupils in attendance, for individualized 22152

parent-teacher conference and reporting periods, and for 22153  
professional meetings of teachers. This requirement shall be 22154  
waived by the superintendent of public instruction if it had been 22155  
necessary for a school to be closed because of disease epidemic, 22156  
hazardous weather conditions, inoperability of school buses or 22157  
other equipment necessary to the school's operation, damage to a 22158  
school building, or other temporary circumstances due to utility 22159  
failure rendering the school building unfit for school use, 22160  
provided that for those school districts operating pursuant to 22161  
section 3313.48 of the Revised Code the number of days the school 22162  
was actually open for instruction with pupils in attendance and 22163  
for individualized parent-teacher conference and reporting periods 22164  
is not less than one hundred seventy-five, or for those school 22165  
districts operating on a trimester plan the number of days the 22166  
school was actually open for instruction with pupils in attendance 22167  
not less than seventy-nine days in any trimester, for those school 22168  
districts operating on a quarterly plan the number of days the 22169  
school was actually open for instruction with pupils in attendance 22170  
not less than fifty-nine days in any quarter, or for those school 22171  
districts operating on a pentamester plan the number of days the 22172  
school was actually open for instruction with pupils in attendance 22173  
not less than forty-four days in any pentamester. 22174

A school district shall not be considered to have failed to 22175  
comply with this division or section 3313.481 of the Revised Code 22176  
because schools were open for instruction but either twelfth grade 22177  
students were excused from attendance for up to three days or only 22178  
a portion of the kindergarten students were in attendance for up 22179  
to three days in order to allow for the gradual orientation to 22180  
school of such students. 22181

The superintendent of public instruction shall waive the 22182  
requirements of this section with reference to the minimum number 22183  
of days or hours school must be in session with pupils in 22184

attendance for the school year succeeding the school year in which 22185  
a board of education initiates a plan of operation pursuant to 22186  
section 3313.481 of the Revised Code. The minimum requirements of 22187  
this section shall again be applicable to such a district 22188  
beginning with the school year commencing the second July 22189  
succeeding the initiation of one such plan, and for each school 22190  
year thereafter. 22191

A school district shall not be considered to have failed to 22192  
comply with this division or section 3313.48 or 3313.481 of the 22193  
Revised Code because schools were open for instruction but the 22194  
length of the regularly scheduled school day, for any number of 22195  
days during the school year, was reduced by not more than two 22196  
hours due to hazardous weather conditions. 22197

(C) The school district has on file, and is paying in 22198  
accordance with, a teachers' salary schedule which complies with 22199  
section 3317.13 of the Revised Code. 22200

(D) The school district utilizes the student management 22201  
record system prescribed by the department as its student 22202  
administration software package to manage and report all data 22203  
required to be reported to the department. This division applies 22204  
beginning July 1, 2007. 22205

A board of education or governing board of an educational 22206  
service center which has not conformed with other law and the 22207  
rules pursuant thereto, shall not participate in the distribution 22208  
of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 22209  
3317.16, 3317.17, and 3317.19 of the Revised Code, except for good 22210  
and sufficient reason established to the satisfaction of the state 22211  
board of education and the state controlling board. 22212

All funds allocated to school districts under this chapter, 22213  
except those specifically allocated for other purposes, shall be 22214  
used to pay current operating expenses only. 22215

**Sec. 3317.012.** (A)(1) The general assembly, having analyzed 22216  
school district expenditure and cost data for fiscal year 1999, 22217  
performed the calculation described in division (B) of this 22218  
section, adjusted the results for inflation, and added the amounts 22219  
described in division (A)(2) of this section, hereby determines 22220  
that the base cost of an adequate education per pupil for the 22221  
fiscal year beginning July 1, 2001, is \$4,814. For the ~~five~~ three 22222  
following fiscal years, the base cost per pupil for each of those 22223  
years, reflecting an annual rate of inflation of two and 22224  
eight-tenths per cent, is \$4,949 for fiscal year 2003, \$5,088 for 22225  
fiscal year 2004, and \$5,230 for fiscal year 2005, ~~\$5,376 for~~ 22226  
~~fiscal year 2006, and \$5,527 for fiscal year 2007.~~ 22227

(2) The base cost per pupil amounts specified in division 22228  
(A)(1) of this section include amounts to reflect the cost to 22229  
school districts of increasing the minimum number of high school 22230  
academic units required for graduation beginning September 15, 22231  
2001, under section 3313.603 of the Revised Code. Analysis of 22232  
fiscal year 1999 data revealed that the school districts meeting 22233  
the requirements of division (B) of this section on average 22234  
required high school students to complete a minimum of nineteen 22235  
and eight-tenths units to graduate. The general assembly 22236  
determines that the cost of funding the additional two-tenths unit 22237  
required by section 3313.603 of the Revised Code is \$12 per pupil 22238  
in fiscal year 2002. This amount was added after the calculation 22239  
described in division (B) of this section and the adjustment for 22240  
inflation from fiscal year 1999 to fiscal year 2002. It is this 22241  
total amount, the calculated base cost plus the supplement to pay 22242  
for the additional partial unit, that constitutes the base cost 22243  
amount specified in division (A)(1) of this section for fiscal 22244  
year 2002 and that is inflated to produce the base cost amounts 22245  
for fiscal years 2003 through ~~2007~~ 2005. 22246

(B) In determining the base cost stated in division (A) of 22247  
this section, capital and debt costs, costs paid for by federal 22248  
funds, and costs covered by funds provided for disadvantaged pupil 22249  
impact aid and transportation were excluded, as were the effects 22250  
on the districts' state funds of the application of the 22251  
cost-of-doing-business factors, assuming a seven and one-half per 22252  
cent variance. 22253

The base cost for fiscal year 1999 was calculated as the 22254  
unweighted average cost per student, on a school district basis, 22255  
of educating students who were not receiving vocational education 22256  
or services pursuant to Chapter 3323. of the Revised Code and who 22257  
were enrolled in a city, exempted village, or local school 22258  
district that in fiscal year 1999 met all of the following 22259  
criteria: 22260

(1) The district met at least twenty of the following 22261  
twenty-seven performance indicators: 22262

(a) A ninety per cent or higher graduation rate; 22263

(b) At least seventy-five per cent of fourth graders 22264  
proficient on the mathematics test prescribed under former 22265  
division (A)(1) of section 3301.0710 of the Revised Code; 22266

(c) At least seventy-five per cent of fourth graders 22267  
proficient on the reading test prescribed under former division 22268  
(A)(1) of section 3301.0710 of the Revised Code; 22269

(d) At least seventy-five per cent of fourth graders 22270  
proficient on the writing test prescribed under former division 22271  
(A)(1) of section 3301.0710 of the Revised Code; 22272

(e) At least seventy-five per cent of fourth graders 22273  
proficient on the citizenship test prescribed under former 22274  
division (A)(1) of section 3301.0710 of the Revised Code; 22275

(f) At least seventy-five per cent of fourth graders 22276

proficient on the science test prescribed under <u>former</u> division	22277
(A)(1) of section 3301.0710 of the Revised Code;	22278
(g) At least seventy-five per cent of sixth graders	22279
proficient on the mathematics test prescribed under <u>former</u>	22280
division (A)(2) of section 3301.0710 of the Revised Code;	22281
(h) At least seventy-five per cent of sixth graders	22282
proficient on the reading test prescribed under <u>former</u> division	22283
(A)(2) of section 3301.0710 of the Revised Code;	22284
(i) At least seventy-five per cent of sixth graders	22285
proficient on the writing test prescribed under <u>former</u> division	22286
(A)(2) of section 3301.0710 of the Revised Code;	22287
(j) At least seventy-five per cent of sixth graders	22288
proficient on the citizenship test prescribed under <u>former</u>	22289
division (A)(2) of section 3301.0710 of the Revised Code;	22290
(k) At least seventy-five per cent of sixth graders	22291
proficient on the science test prescribed under <u>former</u> division	22292
(A)(2) of section 3301.0710 of the Revised Code;	22293
(l) At least seventy-five per cent of ninth graders	22294
proficient on the mathematics test prescribed under Section 4 of	22295
Am. Sub. S.B. 55 of the 122nd general assembly;	22296
(m) At least seventy-five per cent of ninth graders	22297
proficient on the reading test prescribed under Section 4 of Am.	22298
Sub. S.B. 55 of the 122nd general assembly;	22299
(n) At least seventy-five per cent of ninth graders	22300
proficient on the writing test prescribed under Section 4 of Am.	22301
Sub. S.B. 55 of the 122nd general assembly;	22302
(o) At least seventy-five per cent of ninth graders	22303
proficient on the citizenship test prescribed under Section 4 of	22304
Am. Sub. S.B. 55 of the 122nd general assembly;	22305
(p) At least seventy-five per cent of ninth graders	22306

proficient on the science test prescribed under Section 4 of Am.	22307
Sub. S.B. 55 of the 122nd general assembly;	22308
(q) At least eighty-five per cent of tenth graders proficient	22309
on the mathematics test prescribed under Section 4 of Am. Sub.	22310
S.B. 55 of the 122nd general assembly;	22311
(r) At least eighty-five per cent of tenth graders proficient	22312
on the reading test prescribed under Section 4 of Am. Sub. S.B. 55	22313
of the 122nd general assembly;	22314
(s) At least eighty-five per cent of tenth graders proficient	22315
on the writing test prescribed under Section 4 of Am. Sub. S.B. 55	22316
of the 122nd general assembly;	22317
(t) At least eighty-five per cent of tenth graders proficient	22318
on the citizenship test prescribed under Section 4 of Am. Sub.	22319
S.B. 55 of the 122nd general assembly;	22320
(u) At least eighty-five per cent of tenth graders proficient	22321
on the science test prescribed under Section 4 of Am. Sub. S.B. 55	22322
of the 122nd general assembly;	22323
(v) At least sixty per cent of twelfth graders proficient on	22324
the mathematics test prescribed under former division (A)(3) of	22325
section 3301.0710 of the Revised Code;	22326
(w) At least sixty per cent of twelfth graders proficient on	22327
the reading test prescribed under former division (A)(3) of	22328
section 3301.0710 of the Revised Code;	22329
(x) At least sixty per cent of twelfth graders proficient on	22330
the writing test prescribed under former division (A)(3) of	22331
section 3301.0710 of the Revised Code;	22332
(y) At least sixty per cent of twelfth graders proficient on	22333
the citizenship test prescribed under former division (A)(3) of	22334
section 3301.0710 of the Revised Code;	22335
(z) At least sixty per cent of twelfth graders proficient on	22336



the science test prescribed under former division (A)(3) of 22337  
section 3301.0710 of the Revised Code; 22338

(aa) An attendance rate for the year of at least ninety-three 22339  
per cent as defined in section 3302.01 of the Revised Code. 22340

In determining whether a school district met any of the 22341  
performance standards specified in divisions (B)(1)(a) to (aa) of 22342  
this section, the general assembly used a rounding procedure 22343  
previously recommended by the department of education. It is the 22344  
same rounding procedure the general assembly used in 1998 to 22345  
determine whether a district had met the standards of former 22346  
divisions (B)(1)(a) to (r) of this section for purposes of 22347  
constructing the previous model based on fiscal year 1996 data. 22348

(2) The district was not among the five per cent of all 22349  
districts with the highest income, nor among the five per cent of 22350  
all districts with the lowest income. 22351

(3) The district was not among the five per cent of all 22352  
districts with the highest valuation per pupil, nor among the five 22353  
per cent of all districts with the lowest valuation per pupil. 22354

This model for calculating the base cost of an adequate 22355  
education is expenditure-based. The general assembly recognizes 22356  
that increases in state funding to school districts since fiscal 22357  
year 1996, the fiscal year upon which the general assembly based 22358  
its model for calculating state funding to school districts for 22359  
fiscal years 1999 through 2001, has increased school district base 22360  
cost expenditures for fiscal year 1999, the fiscal year upon which 22361  
the general assembly based its model for calculating state funding 22362  
for fiscal years 2002 through ~~2007~~ 2005. In the case of school 22363  
districts included in the fiscal year 1999 model that also had met 22364  
the fiscal year 1996 performance criteria of former division 22365  
(B)(1) of this section, the increased state funding may have 22366  
driven the districts' expenditures beyond the expenditures that 22367

were actually needed to maintain their educational programs at the 22368  
level necessary to maintain their ability to meet the fiscal year 22369  
1999 performance criteria of current division (B)(1) of this 22370  
section. The general assembly has determined to control for this 22371  
effect by stipulating in the later model that the fiscal year 1999 22372  
base cost expenditures of the districts that also met the 22373  
performance criteria of former division (B)(1) of this section 22374  
equals their base cost expenditures per pupil for fiscal year 22375  
1996, inflated to fiscal year 1999 using an annual rate of 22376  
inflation of two and eight-tenths per cent. However, if this 22377  
inflated amount exceeded the district's actual fiscal year 1999 22378  
base cost expenditures per pupil, the district's actual fiscal 22379  
year 1999 base cost expenditures per pupil were used in the 22380  
calculation. For districts in the 1999 model that did not also 22381  
meet the performance criteria of former division (B)(1) of this 22382  
section, the actual 1999 base cost per pupil expenditures were 22383  
used in the calculation of the average district per pupil costs of 22384  
the model districts. 22385

~~(C) In July of 2005, and in July of every six years 22386  
thereafter, the speaker of the house of representatives and the 22387  
president of the senate shall each appoint three members to a 22388  
committee to reexamine the cost of an adequate education. No more 22389  
than two members from any political party shall represent each 22390  
house. The director of budget and management and the 22391  
superintendent of public instruction shall serve as nonvoting ex 22392  
officio members of the committee. 22393~~

~~The committee shall select a rational methodology for 22394  
calculating the costs of an adequate education system for the 22395  
ensuing six year period, and shall report the methodology and the 22396  
resulting costs to the general assembly. In performing its 22397  
function, the committee is not bound by any method used by 22398  
previous general assemblies to examine and calculate costs and 22399~~

~~instead may utilize any rational method it deems suitable and 22400  
reasonable given the educational needs and requirements of the 22401  
state at that time. 22402~~

~~The methodology for determining the cost of an adequate 22403  
education system shall take into account the basic educational 22404  
costs that all districts incur in educating regular students, the 22405  
unique needs of special categories of students, and significant 22406  
special conditions encountered by certain classifications of 22407  
school districts. 22408~~

~~The committee also shall redetermine, for purposes of 22409  
updating the parity aid calculation under section 3317.0217 of the 22410  
Revised Code, the average number of effective operating mills that 22411  
school districts in the seventieth to ninetieth percentiles of 22412  
valuations per pupil collect above the revenues required to 22413  
finance their attributed local shares of the calculated cost of an 22414  
adequate education. 22415~~

~~Any committee appointed pursuant to this section shall make 22416  
its report to the office of budget and management and the general 22417  
assembly within one year of its appointment so that the 22418  
information is available for use by the office and the general 22419  
assembly in preparing the next biennial appropriations act. 22420~~

~~(D)(1) For purposes of this division, an "update year" is the 22421  
first fiscal year for which the per pupil base cost of an adequate 22422  
education is in effect after being recalculated by the general 22423  
assembly. The first update year is fiscal year 2002. The second 22424  
update year is fiscal year 2008. 22425~~

~~(2) The general assembly shall recalculate the per pupil base 22426  
cost of an adequate education every six years after considering 22427  
the recommendations of the committee appointed under division (C) 22428  
of this section. At the time of the recalculation, for each of the 22429  
five fiscal years following the update year, the general assembly 22430~~

~~shall adjust the base cost recalculated for the update year using 22431  
an annual rate of inflation that the general assembly determines 22432  
appropriate. 22433~~

~~(3) The general assembly shall include, in the act 22434  
appropriating state funds for education programs for a fiscal 22435  
biennium that begins with an update year, a statement of its 22436  
determination of the total state share percentage of base cost and 22437  
parity aid funding for the update year. 22438~~

~~(4) During its biennial budget deliberations, the general 22439  
assembly shall determine the total state share percentage of base 22440  
cost and parity aid funding for each fiscal year of the upcoming 22441  
biennium. This determination shall be based on the latest 22442  
projections and data provided by the department of education under 22443  
division (D)(6) of this section prior to the enactment of 22444  
education appropriations for the upcoming biennium. If, based on 22445  
those latest projections and data, the general assembly determines 22446  
that the total state share percentage for either or both nonupdate 22447  
fiscal years varies more than two and one half percentage points 22448  
more or less than the total state share percentage for the most 22449  
recent update year, as previously stated by the general assembly 22450  
under division (D)(3) of this section, the general assembly shall 22451  
determine and enact a method that it considers appropriate to 22452  
restrict the estimated variance for each year to within two and 22453  
one half percentage points. The general assembly's methods may 22454  
include, but are not required to include and need not be limited 22455  
to, reexamining the rate of millage charged off as the local share 22456  
of base cost funding under divisions (A)(1) and (2) of section 22457  
3317.022 of the Revised Code. Regardless of any changes in 22458  
charge off millage rates in years between update years, however, 22459  
the charge off millage rate for update years shall be twenty three 22460  
mills, unless the general assembly determines that a different 22461  
millage rate is more appropriate to share the total calculated 22462~~

~~base cost between the state and school districts. 22463~~

~~(5) The total state share percentage of base cost and parity 22464~~  
~~aid funding for any fiscal year is calculated as follows: 22465~~

~~{(Total state base cost + total state parity aid funding) — 22466~~  
~~statewide charge off amount} / (Total state base cost + total 22467~~  
~~state parity aid funding) 22468~~

~~Where: 22469~~

~~(a) The total state base cost equals the sum of the base 22470~~  
~~costs for all school districts for the fiscal year. 22471~~

~~(b) The base cost for each school district equals: 22472~~  
~~formula amount X cost of doing business factor X 22473~~  
~~the greater of formula ADM or 22474~~  
~~three year average formula ADM 22475~~

~~(c) The total state parity aid funding equals the sum of the 22476~~  
~~amounts paid to all school districts for the fiscal year under 22477~~  
~~section 3317.0217 of the Revised Code. 22478~~

~~(d) The statewide charge off amount equals the sum of the 22479~~  
~~charge off amounts for all school districts. 22480~~

~~(e) The charge off amount for each school district is the 22481~~  
~~amount calculated as its local share of base cost funding and 22482~~  
~~deducted from the total calculated base cost to determine the 22483~~  
~~amount of its state payment under divisions (A)(1) and (2) of 22484~~  
~~section 3317.022 of the Revised Code. The charge off amount for 22485~~  
~~each school district in fiscal year 2002 is the product of 22486~~  
~~twenty three mills multiplied by the district's recognized 22487~~  
~~valuation as adjusted, if applicable, under division (A)(2) of 22488~~  
~~section 3317.022 of the Revised Code. If however, in any fiscal 22489~~  
~~year, including fiscal year 2002, a school district's calculated 22490~~  
~~charge off amount exceeds its base cost calculated as described in 22491~~  
~~division (D)(5)(b) of this section, the district's charge off 22492~~  
~~amount shall be deemed to equal its calculated base cost. 22493~~

~~(6) Whenever requested by the chairperson of the standing committee of the house or representatives or the senate having primary jurisdiction over appropriations, the legislative budget officer, or the director of budget and management, the department of education shall report its latest projections for total base cost, total parity aid funding, and the statewide charge off amount, as those terms are defined in division (D)(5) of this section, for each year of the upcoming fiscal biennium, and all data it used to make the projections.~~

**Sec. 3317.013.** This section does not apply to handicapped preschool students.

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 divisions (A) to (F) of this section shall be adjusted by multiplying them by ~~0.825~~ 0.88. In fiscal year ~~2003~~ 2005, the multiples specified in those divisions shall be adjusted by multiplying them by ~~0.875~~ 0.90.

Not later than May 30, 2004, and May 30, 2005, the department shall submit to the office of budget and management a report that specifies for each city, local, exempted village, and joint vocational school district the fiscal year allocation of the state and local shares of special education and related services additional weighted funding and federal special education funds passed through to the district.

**Sec. 3317.014.** The average vocational education additional cost per pupil 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 vocational education programs are as follows:

(A) A multiple of 0.57 for students enrolled in vocational education job-training and workforce development programs approved

by the department of education in accordance with rules adopted 22554  
under section 3313.90 of the Revised Code. 22555

(B) A multiple of 0.28 for students enrolled in vocational 22556  
education classes other than job-training and workforce 22557  
development programs. 22558

Vocational education associated services costs can be 22559  
expressed as a multiple of 0.05 of the base cost per pupil 22560  
calculated under section 3317.012 of the Revised Code. 22561

The general assembly has adjusted the multiples specified in 22562  
this section for calculating payments beginning in fiscal year 22563  
2002 in recognition that its policy change regarding the 22564  
application of the cost-of-doing-business factor produces a higher 22565  
base cost amount than would exist if no change were made to its 22566  
application. The adjustment maintains the same weighted costs as 22567  
would exist if no change were made to the application of the 22568  
cost-of-doing-business factor. 22569

The department of education shall annually report to the 22570  
governor and the general assembly the amount of weighted funding 22571  
for vocational education and associated services that is spent by 22572  
each city, local, exempted village, and joint vocational school 22573  
district specifically for vocational educational and associated 22574  
services. 22575

**Sec. 3317.022.** (A)(1) The department of education shall 22576  
compute and distribute state base cost funding to each school 22577  
district for the fiscal year in accordance with the following 22578  
formula, making any adjustment required by division (A)(2) of this 22579  
section and using the information obtained under section 3317.021 22580  
of the Revised Code in the calendar year in which the fiscal year 22581  
begins. 22582

Compute the following for each eligible district: 22583



$\dagger(\text{cost-of-doing-business factor X}$  22584  
the formula amount X ~~(the greater of formula ADM~~ 22585  
~~or three-year average formula ADM)~~† - 22586  
(.023 X recognized valuation) 22587

If the difference obtained is a negative number, the 22588  
district's computation shall be zero. 22589

(2)(a) For each school district for which the tax exempt 22590  
value of the district equals or exceeds twenty-five per cent of 22591  
the potential value of the district, the department of education 22592  
shall calculate the difference between the district's tax exempt 22593  
value and twenty-five per cent of the district's potential value. 22594

(b) For each school district to which division (A)(2)(a) of 22595  
this section applies, the department shall adjust the recognized 22596  
valuation used in the calculation under division (A)(1) of this 22597  
section by subtracting from it the amount calculated under 22598  
division (A)(2)(a) of this section. 22599

(B) As used in this section: 22600

(1) The "total special education weight" for a district means 22601  
the sum of the following amounts: 22602

(a) The district's category one special education ADM 22603  
multiplied by the multiple specified in division (A) of section 22604  
3317.013 of the Revised Code; 22605

(b) The district's category two special education ADM 22606  
multiplied by the multiple specified in division (B) of section 22607  
3317.013 of the Revised Code; 22608

(c) The district's category three special education ADM 22609  
multiplied by the multiple specified in division (C) of section 22610  
3317.013 of the Revised Code; 22611

(d) The district's category four special education ADM 22612  
multiplied by the multiple specified in division (D) of section 22613

3317.013 of the Revised Code;	22614
(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;	22615 22616 22617
(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.	22618 22619 22620
(2) "State share percentage" means the percentage calculated for a district as follows:	22621 22622
(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.	22623 22624 22625 22626 22627
(b) If the district would receive state base cost funding under that division, divide that amount by an amount equal to the following:	22628 22629 22630
Cost-of-doing-business factor X	22631
the formula amount X <del>(the greater of formula</del>	22632
<del>ADM or three-year average formula ADM)</del>	22633
The resultant number is the district's state share percentage.	22634 22635
(3) "Related services" includes:	22636
(a) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for handicapped children whose handicaps are described in division (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, behavioral intervention, interpreter services, work study, nursing services, and specialized	22637 22638 22639 22640 22641 22642 22643

integrative services as those terms are defined by the department;	22644
(b) Speech and language services provided to any student with a handicap, including any student whose primary or only handicap is a speech and language handicap;	22645 22646 22647
(c) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services;	22648 22649 22650
(d) Any service included in units funded under former division (0)(1) of section 3317.023 of the Revised Code;	22651 22652
(e) Any other related service needed by handicapped children in accordance with their individualized education plans.	22653 22654
(4) The "total vocational education weight" for a district means the sum of the following amounts:	22655 22656
(a) The district's category one vocational education ADM multiplied by the multiple specified in division (A) of section 3317.014 of the Revised Code;	22657 22658 22659
(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.	22660 22661 22662
(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:	22663 22664 22665 22666
The district's state share percentage	22667
X the formula amount for the year	22668
for which the aid is calculated	22669
X the district's total special education weight	22670
(2) The attributed local share of special education and related services additional weighted costs equals:	22671 22672
(1 - the district's state share percentage) X	22673

the district's total special education weight X 22674  
the formula amount 22675

(3)(a) The department shall compute and pay in accordance 22676  
with this division additional state aid to school districts for 22677  
students in categories two through six special education ADM. If a 22678  
district's costs for the fiscal year for a student in its 22679  
categories two through six special education ADM exceed the 22680  
threshold catastrophic cost for serving the student, the district 22681  
may submit to the superintendent of public instruction 22682  
documentation, as prescribed by the superintendent, of all its 22683  
costs for that student. Upon submission of documentation for a 22684  
student of the type and in the manner prescribed, the department 22685  
shall pay to the district an amount equal to the sum of the 22686  
following: 22687

(i) One-half of the district's costs for the student in 22688  
excess of the threshold catastrophic cost; 22689

(ii) The product of one-half of the district's costs for the 22690  
student in excess of the threshold catastrophic cost multiplied by 22691  
the district's state share percentage. 22692

(b) For purposes of division (C)(3)(a) of this section, the 22693  
threshold catastrophic cost for serving a student equals: 22694

(i) For a student in the school district's category two, 22695  
three, four, or five special education ADM, twenty-five thousand 22696  
dollars in fiscal year 2002 and twenty-five thousand seven hundred 22697  
dollars in fiscal ~~year~~ years 2003, 2004, and 2005; 22698

(ii) For a student in the district's category six special 22699  
education ADM, thirty thousand dollars in fiscal year 2002 and 22700  
thirty thousand eight hundred forty dollars in fiscal ~~year~~ years 22701  
2003, 2004, and 2005. 22702

~~The threshold catastrophic costs for fiscal year 2003 22703~~  
~~represent a two and eight tenths per cent inflationary increase 22704~~

~~over fiscal year 2002.~~ 22705

(c) The district shall only report under division (C)(3)(a) 22706  
of this section, and the department shall only pay for, the costs 22707  
of educational expenses and the related services provided to the 22708  
student in accordance with the student's individualized education 22709  
program. Any legal fees, court costs, or other costs associated 22710  
with any cause of action relating to the student may not be 22711  
included in the amount. 22712

~~(5)(4)~~(4)(a) As used in this division, the "personnel allowance" 22713  
means thirty thousand dollars in fiscal years 2002 ~~and~~, 2003, 22714  
2004, and 2005. 22715

(b) For the provision of speech services to students, 22716  
including students who do not have individualized education 22717  
programs prepared for them under Chapter 3323. of the Revised 22718  
Code, and for no other purpose, the department of education shall 22719  
pay each school district an amount calculated under the following 22720  
formula: 22721

(formula ADM divided by 2000) X 22722

the personnel allowance X the state share percentage 22723

(5) In any fiscal year, a school district shall spend for 22724  
purposes that the department designates as approved for special 22725  
education and related services expenses at least the amount 22726  
calculated as follows: 22727

(cost-of-doing-business factor X 22728  
formula amount X the sum of categories 22729  
one through six special education ADM) + 22730  
(total special education weight X formula amount) 22731

The purposes approved by the department for special education 22732  
expenses shall include, but shall not be limited to, 22733  
identification of handicapped children, compliance with state 22734  
rules governing the education of handicapped children and 22735

prescribing the continuum of program options for handicapped 22736  
children, and the portion of the school district's overall 22737  
administrative and overhead costs that are attributable to the 22738  
district's special education student population. 22739

The department shall require school districts to report data 22740  
annually to allow for monitoring compliance with division (C)(5) 22741  
of this section. The department shall annually report to the 22742  
governor and the general assembly the amount of money spent by 22743  
each school district for special education and related services. 22744

(D)(1) As used in this division: 22745

(a) "Daily bus miles per student" equals the number of bus 22746  
miles traveled per day, divided by transportation base. 22747

(b) "Transportation base" equals total student count as 22748  
defined in section 3301.011 of the Revised Code, minus the number 22749  
of students enrolled in preschool handicapped units, plus the 22750  
number of nonpublic school students included in transportation 22751  
ADM. 22752

(c) "Transported student percentage" equals transportation 22753  
ADM divided by transportation base. 22754

(d) "Transportation cost per student" equals total operating 22755  
costs for board-owned or contractor-operated school buses divided 22756  
by transportation base. 22757

(2) Analysis of student transportation cost data has resulted 22758  
in a finding that an average efficient transportation use cost per 22759  
student can be calculated by means of a regression formula that 22760  
has as its two independent variables the number of daily bus miles 22761  
per student and the transported student percentage. For fiscal 22762  
year 1998 transportation cost data, the average efficient 22763  
transportation use cost per student is expressed as follows: 22764

51.79027 + (139.62626 X daily bus miles per student) + 22765

(116.25573 X transported student percentage) 22766

The department of education shall annually determine the average efficient transportation use cost per student in accordance with the principles stated in division (D)(2) of this section, updating the intercept and regression coefficients of the regression formula modeled in this division, based on an annual statewide analysis of each school district's daily bus miles per student, transported student percentage, and transportation cost per student data. The department shall conduct the annual update using data, including daily bus miles per student, transported student percentage, and transportation cost per student data, from the prior fiscal year. The department shall notify the office of budget and management of such update by the fifteenth day of February of each year.

(3) In addition to funds paid under divisions (A), (C), and (E) of this section, each district with a transported student percentage greater than zero shall receive a payment equal to a percentage of the product of the district's transportation base from the prior fiscal year times the annually updated average efficient transportation use cost per student, times an inflation factor of two and eight tenths per cent to account for the one-year difference between the data used in updating the formula and calculating the payment and the year in which the payment is made. The percentage shall be the following percentage of that product specified for the corresponding fiscal year:

FISCAL YEAR	PERCENTAGE	
2000	52.5%	
2001	55%	
2002	57.5%	
2003 and thereafter	The greater of 60% or the district's state share percentage	

The payments made under division (D)(3) of this section each

year shall be calculated based on all of the same prior year's data used to update the formula. 22797  
22798

(4) In addition to funds paid under divisions (D)(2) and (3) of this section, a school district shall receive a rough road subsidy if both of the following apply: 22799  
22800  
22801

(a) Its county rough road percentage is higher than the statewide rough road percentage, as those terms are defined in division (D)(5) of this section; 22802  
22803  
22804

(b) Its district student density is lower than the statewide student density, as those terms are defined in that division. 22805  
22806

(5) The rough road subsidy paid to each district meeting the qualifications of division (D)(4) of this section shall be calculated in accordance with the following formula: 22807  
22808  
22809

(per rough mile subsidy X total rough road miles) X  
density multiplier 22810  
22811

where: 22812

(a) "Per rough mile subsidy" equals the amount calculated in accordance with the following formula: 22813  
22814

0.75 - {0.75 X [(maximum rough road percentage -  
county rough road percentage)/(maximum rough road percentage -  
statewide rough road percentage)]} 22815  
22816

county rough road percentage)/(maximum rough road percentage -  
statewide rough road percentage)]} 22817  
22818

(i) "Maximum rough road percentage" means the highest county rough road percentage in the state. 22819  
22820

(ii) "County rough road percentage" equals the percentage of the mileage of state, municipal, county, and township roads that is rated by the department of transportation as type A, B, C, E2, or F in the county in which the school district is located or, if the district is located in more than one county, the county to which it is assigned for purposes of determining its 22821  
22822  
22823  
22824  
22825  
22826



cost-of-doing-business factor. 22827

(iii) "Statewide rough road percentage" means the percentage 22828  
of the statewide total mileage of state, municipal, county, and 22829  
township roads that is rated as type A, B, C, E2, or F by the 22830  
department of transportation. 22831

(b) "Total rough road miles" means a school district's total 22832  
bus miles traveled in one year times its county rough road 22833  
percentage. 22834

(c) "Density multiplier" means a figure calculated in 22835  
accordance with the following formula: 22836

1 - [(minimum student density - district student 22837  
density)/(minimum student density - 22838  
statewide student density)] 22839

(i) "Minimum student density" means the lowest district 22840  
student density in the state. 22841

(ii) "District student density" means a school district's 22842  
transportation base divided by the number of square miles in the 22843  
district. 22844

(iii) "Statewide student density" means the sum of the 22845  
transportation bases for all school districts divided by the sum 22846  
of the square miles in all school districts. 22847

(6) In addition to funds paid under divisions (D)(2) to (5) 22848  
of this section, each district shall receive in accordance with 22849  
rules adopted by the state board of education a payment for 22850  
students transported by means other than board-owned or 22851  
contractor-operated buses and whose transportation is not funded 22852  
under division (J) of section 3317.024 of the Revised Code. The 22853  
rules shall include provisions for school district reporting of 22854  
such students. 22855

(E)(1) The department shall compute and distribute state 22856

vocational education additional weighted costs funds to each 22857  
school district in accordance with the following formula: 22858  
state share percentage X 22859  
the formula amount X 22860  
total vocational education weight 22861

In any fiscal year, a school district receiving funds under 22862  
division (E)(1) of this section shall spend those funds only for 22863  
the purposes that the department designates as approved for 22864  
vocational education expenses. Vocational educational expenses 22865  
approved by the department shall include only expenses connected 22866  
to the delivery of career-technical programming to 22867  
career-technical students. The department shall require the school 22868  
district to report data annually so that the department may 22869  
monitor the district's compliance with the requirements regarding 22870  
the manner in which funding received under division (E)(1) of this 22871  
section may be spent. 22872

(2) The department shall compute for each school district 22873  
state funds for vocational education associated services in 22874  
accordance with the following formula: 22875  
state share percentage X .05 X 22876  
the formula amount X the sum of categories one and two 22877  
vocational education ADM 22878

In any fiscal year, a school district receiving funds under 22879  
division (E)(2) of this section, or through a transfer of funds 22880  
pursuant to division (L) of section 3317.023 of the Revised Code, 22881  
shall spend those funds only for the purposes that the department 22882  
designates as approved for vocational education associated 22883  
services expenses, which may include such purposes as 22884  
apprenticeship coordinators, coordinators for other vocational 22885  
education services, vocational evaluation, and other purposes 22886  
designated by the department. The department may deny payment 22887  
under division (E)(2) of this section to any district that the 22888

department determines is not operating those services or is using 22889  
funds paid under division (E)(2) of this section, or through a 22890  
transfer of funds pursuant to division (L) of section 3317.023 of 22891  
the Revised Code, for other purposes. 22892

(F) Beginning in fiscal year 2003, the actual local share in 22893  
any fiscal year for the combination of special education and 22894  
related services additional weighted costs funding calculated 22895  
under division (C)(1) of this section, transportation funding 22896  
calculated under divisions (D)(2) and (3) of this section, and 22897  
vocational education and associated services additional weighted 22898  
costs funding calculated under divisions (E)(1) and (2) of this 22899  
section shall not exceed for any school district the product of 22900  
three mills times the district's recognized valuation. Beginning 22901  
in fiscal year 2003, the department annually shall pay each school 22902  
district as an excess cost supplement any amount by which the sum 22903  
of the district's attributed local shares for that funding exceeds 22904  
that product. For purposes of calculating the excess cost 22905  
supplement: 22906

(1) The attributed local share for special education and 22907  
related services additional weighted costs funding is the amount 22908  
specified in division (C)(2) of this section. 22909

(2) The attributed local share of transportation funding 22910  
equals the difference of the total amount calculated for the 22911  
district using the formula developed under division (D)(2) of this 22912  
section minus the actual amount paid to the district after 22913  
applying the percentage specified in division (D)(3) of this 22914  
section. 22915

(3) The attributed local share of vocational education and 22916  
associated services additional weighted costs funding is the 22917  
amount determined as follows: 22918

(1 - state share percentage) X 22919  
[(total vocational education weight X the formula amount) + 22920

the payment under division (E)(2) of this section] 22921

**Sec. 3317.023.** (A) Notwithstanding section 3317.022 of the 22922  
Revised Code, the amounts required to be paid to a district under 22923  
this chapter shall be adjusted by the amount of the computations 22924  
made under divisions (B) to ~~(L)~~(M) of this section. 22925

As used in this section: 22926

(1) "Classroom teacher" means a licensed employee who 22927  
provides direct instruction to pupils, excluding teachers funded 22928  
from money paid to the district from federal sources; educational 22929  
service personnel; and vocational and special education teachers. 22930

(2) "Educational service personnel" shall not include such 22931  
specialists funded from money paid to the district from federal 22932  
sources or assigned full-time to vocational or special education 22933  
students and classes and may only include those persons employed 22934  
in the eight specialist areas in a pattern approved by the 22935  
department of education under guidelines established by the state 22936  
board of education. 22937

(3) "Annual salary" means the annual base salary stated in 22938  
the state minimum salary schedule for the performance of the 22939  
teacher's regular teaching duties that the teacher earns for 22940  
services rendered for the first full week of October of the fiscal 22941  
year for which the adjustment is made under division (C) of this 22942  
section. It shall not include any salary payments for supplemental 22943  
teachers contracts. 22944

(4) "Regular student population" means the formula ADM plus 22945  
the number of students reported as enrolled in the district 22946  
pursuant to division (A)(1) of section 3313.981 of the Revised 22947  
Code; minus the number of students reported under division (A)(2) 22948  
of section 3317.03 of the Revised Code; minus the FTE of students 22949  
reported under division (B)~~(5)~~, (6), (7), (8), (9), (10), (11), or 22950

(12) of that section who are enrolled in a vocational education 22951  
class or receiving special education; and minus ~~one-fourth~~ ten per 22952  
cent of the students enrolled concurrently in a joint vocational 22953  
school district. 22954

(5) "State share percentage" has the same meaning as in 22955  
section 3317.022 of the Revised Code. 22956

(6) "VEPD" means a school district or group of school 22957  
districts designated by the department of education as being 22958  
responsible for the planning for and provision of vocational 22959  
education services to students within the district or group. 22960

(7) "Lead district" means a school district, including a 22961  
joint vocational school district, designated by the department as 22962  
a VEPD, or designated to provide primary vocational education 22963  
leadership within a VEPD composed of a group of districts. 22964

(B) If the district employs less than one full-time 22965  
equivalent classroom teacher for each twenty-five pupils in the 22966  
regular student population in any school district, deduct the sum 22967  
of the amounts obtained from the following computations: 22968

(1) Divide the number of the district's full-time equivalent 22969  
classroom teachers employed by one twenty-fifth; 22970

(2) Subtract the quotient in (1) from the district's regular 22971  
student population; 22972

(3) Multiply the difference in (2) by seven hundred fifty-two 22973  
dollars. 22974

(C) If a positive amount, add one-half of the amount obtained 22975  
by multiplying the number of full-time equivalent classroom 22976  
teachers by: 22977

(1) The mean annual salary of all full-time equivalent 22978  
classroom teachers employed by the district at their respective 22979  
training and experience levels minus; 22980

(2) The mean annual salary of all such teachers at their 22981  
respective levels in all school districts receiving payments under 22982  
this section. 22983

The number of full-time equivalent classroom teachers used in 22984  
this computation shall not exceed one twenty-fifth of the 22985  
district's regular student population. In calculating the 22986  
district's mean salary under this division, those full-time 22987  
equivalent classroom teachers with the highest training level 22988  
shall be counted first, those with the next highest training level 22989  
second, and so on, in descending order. Within the respective 22990  
training levels, teachers with the highest years of service shall 22991  
be counted first, the next highest years of service second, and so 22992  
on, in descending order. 22993

(D) This division does not apply to a school district that 22994  
has entered into an agreement under division (A) of section 22995  
3313.42 of the Revised Code. Deduct the amount obtained from the 22996  
following computations if the district employs fewer than five 22997  
full-time equivalent educational service personnel, including 22998  
elementary school art, music, and physical education teachers, 22999  
counselors, librarians, visiting teachers, school social workers, 23000  
and school nurses for each one thousand pupils in the regular 23001  
student population: 23002

(1) Divide the number of full-time equivalent educational 23003  
service personnel employed by the district by five 23004  
one-thousandths; 23005

(2) Subtract the quotient in (1) from the district's regular 23006  
student population; 23007

(3) Multiply the difference in (2) by ninety-four dollars. 23008

(E) If a local school district, or a city or exempted village 23009  
school district to which a governing board of an educational 23010  
service center provides services pursuant to section 3313.843 of 23011

the Revised Code, deduct the amount of the payment required for 23012  
the reimbursement of the governing board under section 3317.11 of 23013  
the Revised Code. 23014

(F)(1) If the district is required to pay to or entitled to 23015  
receive tuition from another school district under division (C)(2) 23016  
or (3) of section 3313.64 or section 3313.65 of the Revised Code, 23017  
or if the superintendent of public instruction is required to 23018  
determine the correct amount of tuition and make a deduction or 23019  
credit under section 3317.08 of the Revised Code, deduct and 23020  
credit such amounts as provided in division (I) of section 3313.64 23021  
or section 3317.08 of the Revised Code. 23022

(2) For each child for whom the district is responsible for 23023  
tuition or payment under division (A)(1) of section 3317.082 or 23024  
section 3323.091 of the Revised Code, deduct the amount of tuition 23025  
or payment for which the district is responsible. 23026

(G) If the district has been certified by the superintendent 23027  
of public instruction under section 3313.90 of the Revised Code as 23028  
not in compliance with the requirements of that section, deduct an 23029  
amount equal to ten per cent of the amount computed for the 23030  
district under section 3317.022 of the Revised Code. 23031

(H) If the district has received a loan from a commercial 23032  
lending institution for which payments are made by the 23033  
superintendent of public instruction pursuant to division (E)(3) 23034  
of section 3313.483 of the Revised Code, deduct an amount equal to 23035  
such payments. 23036

(I)(1) If the district is a party to an agreement entered 23037  
into under division (D), (E), or (F) of section 3311.06 or 23038  
division (B) of section 3311.24 of the Revised Code and is 23039  
obligated to make payments to another district under such an 23040  
agreement, deduct an amount equal to such payments if the district 23041  
school board notifies the department in writing that it wishes to 23042

have such payments deducted. 23043

(2) If the district is entitled to receive payments from 23044  
another district that has notified the department to deduct such 23045  
payments under division (I)(1) of this section, add the amount of 23046  
such payments. 23047

(J) If the district is required to pay an amount of funds to 23048  
a cooperative education district pursuant to a provision described 23049  
by division (B)(4) of section 3311.52 or division (B)(8) of 23050  
section 3311.521 of the Revised Code, deduct such amounts as 23051  
provided under that provision and credit those amounts to the 23052  
cooperative education district for payment to the district under 23053  
division (B)(1) of section 3317.19 of the Revised Code. 23054

(K)(1) If a district is educating a student entitled to 23055  
attend school in another district pursuant to a shared education 23056  
contract, compact, or cooperative education agreement other than 23057  
an agreement entered into pursuant to section 3313.842 of the 23058  
Revised Code, credit to that educating district on an FTE basis 23059  
both of the following: 23060

(a) An amount equal to the formula amount times the cost of 23061  
doing business factor of the school district where the student is 23062  
entitled to attend school pursuant to section 3313.64 or 3313.65 23063  
of the Revised Code; 23064

(b) An amount equal to the formula amount times the state 23065  
share percentage times any multiple applicable to the student 23066  
pursuant to section 3317.013 or 3317.014 of the Revised Code. 23067

(2) Deduct any amount credited pursuant to division (K)(1) of 23068  
this section from amounts paid to the school district in which the 23069  
student is entitled to attend school pursuant to section 3313.64 23070  
or 3313.65 of the Revised Code. 23071

(3) If the district is required by a shared education 23072  
contract, compact, or cooperative education agreement to make 23073



payments to an educational service center, deduct the amounts from 23074  
payments to the district and add them to the amounts paid to the 23075  
service center pursuant to section 3317.11 of the Revised Code. 23076

(L)(1) If a district, including a joint vocational school 23077  
district, is a lead district of a VEPD, credit to that district 23078  
the amounts calculated for all the school districts within that 23079  
VEPD pursuant to division (E)(2) of section 3317.022 of the 23080  
Revised Code. 23081

(2) Deduct from each appropriate district that is not a lead 23082  
district, the amount attributable to that district that is 23083  
credited to a lead district under division (L)(1) of this section. 23084

(M) If the department pays a joint vocational school district 23085  
under division (G)(4) of section 3317.16 of the Revised Code for 23086  
excess costs of providing special education and related services 23087  
to a handicapped student, as calculated under division (G)(2) of 23088  
that section, the department shall deduct the amount of that 23089  
payment from the city, local, or exempted village school district 23090  
that is responsible as specified in that section for the excess 23091  
costs. 23092

**Sec. 3317.024.** In addition to the moneys paid to eligible 23093  
school districts pursuant to section 3317.022 of the Revised Code, 23094  
moneys appropriated for the education programs in divisions (A) to 23095  
(H), (J) to (L), (O), (P), and (R) of this section shall be 23096  
distributed to school districts meeting the requirements of 23097  
section 3317.01 of the Revised Code; in the case of divisions (J) 23098  
and (P) of this section, to educational service centers as 23099  
provided in section 3317.11 of the Revised Code; in the case of 23100  
divisions (E), (M), and (N) of this section, to county MR/DD 23101  
boards; in the case of division (R) of this section, to joint 23102  
vocational school districts; in the case of division (K) of this 23103  
section, to cooperative education school districts; and in the 23104

case of division (Q) of this section, to the institutions defined 23105  
under section 3317.082 of the Revised Code providing elementary or 23106  
secondary education programs to children other than children 23107  
receiving special education under section 3323.091 of the Revised 23108  
Code. The following shall be distributed monthly, quarterly, or 23109  
annually as may be determined by the state board of education: 23110

(A) A per pupil amount to each school district that 23111  
establishes a summer school remediation program that complies with 23112  
rules of the state board of education. 23113

(B) An amount for each island school district and each joint 23114  
state school district for the operation of each high school and 23115  
each elementary school maintained within such district and for 23116  
capital improvements for such schools. Such amounts shall be 23117  
determined on the basis of standards adopted by the state board of 23118  
education. 23119

(C) An amount for each school district operating classes for 23120  
children of migrant workers who are unable to be in attendance in 23121  
an Ohio school during the entire regular school year. The amounts 23122  
shall be determined on the basis of standards adopted by the state 23123  
board of education, except that payment shall be made only for 23124  
subjects regularly offered by the school district providing the 23125  
classes. 23126

(D) An amount for each school district with guidance, 23127  
testing, and counseling programs approved by the state board of 23128  
education. The amount shall be determined on the basis of 23129  
standards adopted by the state board of education. 23130

(E) An amount for the emergency purchase of school buses as 23131  
provided for in section 3317.07 of the Revised Code; 23132

(F) An amount for each school district required to pay 23133  
tuition for a child in an institution maintained by the department 23134  
of youth services pursuant to section 3317.082 of the Revised 23135

Code, provided the child was not included in the calculation of 23136  
the district's average daily membership for the preceding school 23137  
year. 23138

(G) In fiscal year 2000 only, an amount to each school 23139  
district for supplemental salary allowances for each licensed 23140  
employee except those licensees serving as superintendents, 23141  
assistant superintendents, principals, or assistant principals, 23142  
whose term of service in any year is extended beyond the term of 23143  
service of regular classroom teachers, as described in section 23144  
3301.0725 of the Revised Code; 23145

(H) An amount for adult basic literacy education for each 23146  
district participating in programs approved by the state board of 23147  
education. The amount shall be determined on the basis of 23148  
standards adopted by the state board of education. 23149

(I) Notwithstanding section 3317.01 of the Revised Code, but 23150  
only until June 30, 1999, to each city, local, and exempted 23151  
village school district, an amount for conducting driver education 23152  
courses at high schools for which the state board of education 23153  
prescribes minimum standards and to joint vocational and 23154  
cooperative education school districts and educational service 23155  
centers, an amount for conducting driver education courses to 23156  
pupils enrolled in a high school for which the state board 23157  
prescribes minimum standards. No payments shall be made under this 23158  
division after June 30, 1999. 23159

(J) An amount for the approved cost of transporting 23160  
developmentally handicapped pupils whom it is impossible or 23161  
impractical to transport by regular school bus in the course of 23162  
regular route transportation provided by the district or service 23163  
center. No district or service center is eligible to receive a 23164  
payment under this division for the cost of transporting any pupil 23165  
whom it transports by regular school bus and who is included in 23166  
the district's transportation ADM. The state board of education 23167

shall establish standards and guidelines for use by the department 23168  
of education in determining the approved cost of such 23169  
transportation for each district or service center. 23170

(K) An amount to each school district, including each 23171  
cooperative education school district, pursuant to section 3313.81 23172  
of the Revised Code to assist in providing free lunches to needy 23173  
children and an amount to assist needy school districts in 23174  
purchasing necessary equipment for food preparation. The amounts 23175  
shall be determined on the basis of rules adopted by the state 23176  
board of education. 23177

(L) An amount to each school district, for each pupil 23178  
attending a chartered nonpublic elementary or high school within 23179  
the district. The amount shall equal the amount appropriated for 23180  
the implementation of section 3317.06 of the Revised Code divided 23181  
by the average daily membership in grades kindergarten through 23182  
twelve in nonpublic elementary and high schools within the state 23183  
as determined during the first full week in October of each school 23184  
year. 23185

(M) An amount for each county MR/DD board, distributed on the 23186  
basis of standards adopted by the state board of education, for 23187  
the approved cost of transportation required for children 23188  
attending special education programs operated by the county MR/DD 23189  
board under section 3323.09 of the Revised Code; 23190

(N) An amount for each county MR/DD board, distributed on the 23191  
basis of standards adopted by the state board of education, for 23192  
supportive home services for preschool children; 23193

(O) An amount for each school district that establishes a 23194  
mentor teacher program that complies with rules of the state board 23195  
of education. No school district shall be required to establish or 23196  
maintain such a program in any year unless sufficient funds are 23197  
appropriated to cover the district's total costs for the program. 23198

(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.

(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.

(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 payment shall be the district's state share percentage, as defined in section 3317.022 or 3317.16 of the Revised Code, times the GRADS personnel allowance times the full-time-equivalent number of GRADS teachers approved by the department. The GRADS personnel allowance is ~~\$46,260~~ \$47,555 in fiscal years ~~2002~~ 2004 and ~~2003~~ 2005.

The state board of education or any other board of education or governing board may provide for any resident of a district or educational service center territory any educational service for which funds are made available to the board by the United States under the authority of public law, whether such funds come

directly or indirectly from the United States or any agency or 23231  
department thereof or through the state or any agency, department, 23232  
or political subdivision thereof. 23233

**Sec. 3317.029.** (A) As used in this section: 23234

(1) "DPIA percentage" means: 23235

(a) In fiscal years prior to fiscal year 2004, the quotient 23236  
obtained by dividing the five-year average number of children ages 23237  
five to seventeen residing in the school district and living in a 23238  
family receiving assistance under the Ohio works first program or 23239  
an antecedent program known as TANF or ADC, as certified or 23240  
adjusted under section 3317.10 of the Revised Code, by the 23241  
district's three-year average formula ADM. 23242

(b) Beginning in fiscal year 2004, the unduplicated number of 23243  
children ages five to seventeen residing in the school district 23244  
and living in a family that has family income not exceeding the 23245  
federal poverty guidelines and that receives family assistance, as 23246  
certified or adjusted under section 3317.10 of the Revised Code, 23247  
divided by the district's three-year average formula ADM. 23248

(2) "Family assistance" means assistance received under one 23249  
of the following: 23250

(a) The Ohio works first program; 23251

(b) The food stamp program; 23252

(c) The medical assistance program, including the healthy 23253  
start program, established under Chapter 5111. of the Revised 23254  
Code; 23255

(d) The children's health insurance program part I 23256  
established under section 5101.50 of the Revised Code or, prior to 23257  
fiscal year 2000, an executive order issued under section 107.17 23258  
of the Revised Code; 23259

(e) The disability <u>financial</u> assistance program established	23260
under Chapter 5115. of the Revised Code;	23261
<u>(f) The disability medical assistance program established</u>	23262
<u>under Chapter 5115. of the Revised Code.</u>	23263
(3) "Statewide DPIA percentage" means:	23264
(a) In fiscal years prior to fiscal year 2004, the five-year	23265
average of the total number of children ages five to seventeen	23266
years residing in the state and receiving assistance under the	23267
Ohio works first program or an antecedent program known as TANF or	23268
ADC, divided by the sum of the three-year average formula ADMs for	23269
all school districts in the state.	23270
(b) Beginning in fiscal year 2004, the total unduplicated	23271
number of children ages five to seventeen residing in the state	23272
and living in a family that has family income not exceeding the	23273
federal poverty guidelines and that receives family assistance,	23274
divided by the sum of the three-year average formula ADMs for all	23275
school districts in the state.	23276
(4) "DPIA index" means the quotient obtained by dividing the	23277
school district's DPIA percentage by the statewide DPIA	23278
percentage.	23279
(5) "Federal poverty guidelines" has the same meaning as in	23280
section 5101.46 of the Revised Code.	23281
(6) "DPIA student count" means:	23282
(a) In fiscal years prior to fiscal year 2004, the five-year	23283
average number of children ages five to seventeen residing in the	23284
school district and living in a family receiving assistance under	23285
the Ohio works first program or an antecedent program known as	23286
TANF or ADC, as certified under section 3317.10 of the Revised	23287
Code;	23288
(b) Beginning in fiscal year 2004, the unduplicated number of	23289

children ages five to seventeen residing in the school district 23290  
and living in a family that has family income not exceeding the 23291  
federal poverty guidelines and that receives family assistance, as 23292  
certified or adjusted under section 3317.10 of the Revised Code. 23293

(7) "Kindergarten ADM" means the number of students reported 23294  
under section 3317.03 of the Revised Code as enrolled in 23295  
kindergarten. 23296

(8) "Kindergarten through third grade ADM" means the amount 23297  
calculated as follows: 23298

(a) Multiply the kindergarten ADM by the sum of one plus the 23299  
all-day kindergarten percentage; 23300

(b) Add the number of students in grades one through three; 23301

(c) Subtract from the sum calculated under division (A)(6)(b) 23302  
of this section the number of special education students in grades 23303  
kindergarten through three. 23304

(9) "Statewide average teacher salary" means forty-two 23305  
thousand four hundred sixty-nine dollars in fiscal year 2002, and 23306  
forty-three thousand six hundred fifty-eight dollars in fiscal 23307  
year 2003, which includes an amount for the value of fringe 23308  
benefits. 23309

(10) "All-day kindergarten" means a kindergarten class that 23310  
is in session five days per week for not less than the same number 23311  
of clock hours each day as for pupils in grades one through six. 23312

(11) "All-day kindergarten percentage" means the percentage 23313  
of a district's actual total number of students enrolled in 23314  
kindergarten who are enrolled in all-day kindergarten. 23315

(12) "Buildings with the highest concentration of need" 23316  
means: 23317

(a) In fiscal years prior to fiscal year 2004, the school 23318  
buildings in a district with percentages of students in grades 23319



kindergarten through three receiving assistance under Ohio works 23320  
first at least as high as the district-wide percentage of students 23321  
receiving such assistance. 23322

(b) Beginning in fiscal year 2004, the school buildings in a 23323  
district with percentages of students in grades kindergarten 23324  
through three receiving family assistance at least as high as the 23325  
district-wide percentage of students receiving family assistance. 23326

(c) If, in any fiscal year, the information provided by the 23327  
department of job and family services under section 3317.10 of the 23328  
Revised Code is insufficient to determine the Ohio works first or 23329  
family assistance percentage in each building, "buildings with the 23330  
highest concentration of need" has the meaning given in rules that 23331  
the department of education shall adopt. The rules shall base the 23332  
definition of "buildings with the highest concentration of need" 23333  
on family income of students in grades kindergarten through three 23334  
in a manner that, to the extent possible with available data, 23335  
approximates the intent of this division and division (G) of this 23336  
section to designate buildings where the Ohio works first or 23337  
family assistance percentage in those grades equals or exceeds the 23338  
district-wide Ohio works first or family assistance percentage. 23339

(B) In addition to the amounts required to be paid to a 23340  
school district under section 3317.022 of the Revised Code, a 23341  
school district shall receive the greater of the amount the 23342  
district received in fiscal year 1998 pursuant to division (B) of 23343  
section 3317.023 of the Revised Code as it existed at that time or 23344  
the sum of the computations made under divisions (C) to (E) of 23345  
this section. 23346

(C) A supplemental payment that may be utilized for measures 23347  
related to safety and security and for remediation or similar 23348  
programs, calculated as follows: 23349

(1) If the DPIA index of the school district is greater than 23350

or equal to thirty-five-hundredths, but less than one, an amount 23351  
obtained by multiplying the district's DPIA student count by two 23352  
hundred thirty dollars; 23353

(2) If the DPIA index of the school district is greater than 23354  
or equal to one, an amount obtained by multiplying the DPIA index 23355  
by two hundred thirty dollars and multiplying that product by the 23356  
district's DPIA student count. 23357

Except as otherwise provided in division (F) of this section, 23358  
beginning with the school year that starts July 1, 2002, each 23359  
school district annually shall use at least twenty per cent of the 23360  
funds calculated for the district under this division for 23361  
intervention services required by section 3313.608 of the Revised 23362  
Code. 23363

(D) A payment for all-day kindergarten if the DPIA index of 23364  
the school district is greater than or equal to one or if the 23365  
district's three-year average formula ADM exceeded seventeen 23366  
thousand five hundred, calculated by multiplying the all-day 23367  
kindergarten percentage by the kindergarten ADM and multiplying 23368  
that product by the formula amount. 23369

(E) A class-size reduction payment based on calculating the 23370  
number of new teachers necessary to achieve a lower 23371  
student-teacher ratio, as follows: 23372

(1) Determine or calculate a formula number of teachers per 23373  
one thousand students based on the DPIA index of the school 23374  
district as follows: 23375

(a) If the DPIA index of the school district is less than 23376  
six-tenths, the formula number of teachers is 43.478, which is the 23377  
number of teachers per one thousand students at a student-teacher 23378  
ratio of twenty-three to one; 23379

(b) If the DPIA index of the school district is greater than 23380  
or equal to six-tenths, but less than two and one-half, the 23381

formula number of teachers is calculated as follows: 23382  
$$43.478 + \{[(\text{DPIA index} - 0.6) / 1.9] \times 23.188\}$$
 23383

Where 43.478 is the number of teachers per one thousand 23384  
students at a student-teacher ratio of twenty-three to one; 1.9 is 23385  
the interval from a DPIA index of six-tenths to a DPIA index of 23386  
two and one-half; and 23.188 is the difference in the number of 23387  
teachers per one thousand students at a student-teacher ratio of 23388  
fifteen to one and the number of teachers per one thousand 23389  
students at a student-teacher ratio of twenty-three to one. 23390

(c) If the DPIA index of the school district is greater than 23391  
or equal to two and one-half, the formula number of teachers is 23392  
66.667, which is the number of teachers per one thousand students 23393  
at a student-teacher ratio of fifteen to one. 23394

(2) Multiply the formula number of teachers determined or 23395  
calculated in division (E)(1) of this section by the kindergarten 23396  
through third grade ADM for the district and divide that product 23397  
by one thousand; 23398

(3) Calculate the number of new teachers as follows: 23399

(a) Multiply the kindergarten through third grade ADM by 23400  
43.478, which is the number of teachers per one thousand students 23401  
at a student-teacher ratio of twenty-three to one, and divide that 23402  
product by one thousand; 23403

(b) Subtract the quotient obtained in division (E)(3)(a) of 23404  
this section from the product in division (E)(2) of this section. 23405

(4) Multiply the greater of the difference obtained under 23406  
division (E)(3) of this section or zero by the statewide average 23407  
teachers salary. 23408

(F) This division applies only to school districts whose DPIA 23409  
index is one or greater. 23410

(1) Each school district subject to this division shall first 23411

utilize funds received under this section so that, when combined 23412  
with other funds of the district, sufficient funds exist to 23413  
provide all-day kindergarten to at least the number of children in 23414  
the district's all-day kindergarten percentage. 23415

(2) Up to an amount equal to the district's DPIA index 23416  
multiplied by its DPIA student count multiplied by two hundred 23417  
thirty dollars of the money distributed under this section may be 23418  
utilized for one or both of the following: 23419

(a) Programs designed to ensure that schools are free of 23420  
drugs and violence and have a disciplined environment conducive to 23421  
learning; 23422

(b) Remediation for students who have failed or are in danger 23423  
of failing any of the tests administered pursuant to section 23424  
3301.0710 of the Revised Code. 23425

Beginning with the school year that starts on July 1, 2002, 23426  
each school district shall use at least twenty per cent of the 23427  
funds set aside for the purposes of divisions (F)(2)(a) and (b) of 23428  
this section to provide intervention services required by section 23429  
3313.608 of the Revised Code. 23430

(3) Except as otherwise required by division (G) or permitted 23431  
under division (K) of this section, all other funds distributed 23432  
under this section to districts subject to this division shall be 23433  
utilized for the purpose of the third grade guarantee. The third 23434  
grade guarantee consists of increasing the amount of instructional 23435  
attention received per pupil in kindergarten through third grade, 23436  
either by reducing the ratio of students to instructional 23437  
personnel or by increasing the amount of instruction and 23438  
curriculum-related activities by extending the length of the 23439  
school day or the school year. 23440

School districts may implement a reduction of the ratio of 23441  
students to instructional personnel through any or all of the 23442

following methods:	23443
(a) Reducing the number of students in a classroom taught by a single teacher;	23444 23445
(b) Employing full-time educational aides or educational paraprofessionals issued a permit or license under section 3319.088 of the Revised Code;	23446 23447 23448
(c) Instituting a team-teaching method that will result in a lower student-teacher ratio in a classroom.	23449 23450
Districts may extend the school day either by increasing the amount of time allocated for each class, increasing the number of classes provided per day, offering optional academic-related after-school programs, providing curriculum-related extra curricular activities, or establishing tutoring or remedial services for students who have demonstrated an educational need. In accordance with section 3319.089 of the Revised Code, a district extending the school day pursuant to this division may utilize a participant of the work experience program who has a child enrolled in a public school in that district and who is fulfilling the work requirements of that program by volunteering or working in that public school. If the work experience program participant is compensated, the school district may use the funds distributed under this section for all or part of the compensation.	23451 23452 23453 23454 23455 23456 23457 23458 23459 23460 23461 23462 23463 23464 23465
Districts may extend the school year either through adding regular days of instruction to the school calendar or by providing summer programs.	23466 23467 23468
(G) Each district subject to division (F) of this section shall not expend any funds received under division (E) of this section in any school buildings that are not buildings with the highest concentration of need, unless there is a ratio of instructional personnel to students of no more than fifteen to one	23469 23470 23471 23472 23473

in each kindergarten and first grade class in all buildings with 23474  
the highest concentration of need. This division does not require 23475  
that the funds used in buildings with the highest concentration of 23476  
need be spent solely to reduce the ratio of instructional 23477  
personnel to students in kindergarten and first grade. A school 23478  
district may spend the funds in those buildings in any manner 23479  
permitted by division (F)(3) of this section, but may not spend 23480  
the money in other buildings unless the fifteen-to-one ratio 23481  
required by this division is attained. 23482

(H)(1) By the first day of August of each fiscal year, each 23483  
school district wishing to receive any funds under division (D) of 23484  
this section shall submit to the department of education an 23485  
estimate of its all-day kindergarten percentage. Each district 23486  
shall update its estimate throughout the fiscal year in the form 23487  
and manner required by the department, and the department shall 23488  
adjust payments under this section to reflect the updates. 23489

(2) Annually by the end of December, the department of 23490  
education, utilizing data from the information system established 23491  
under section 3301.0714 of the Revised Code and after consultation 23492  
with the legislative office of education oversight, shall 23493  
determine for each school district subject to division (F) of this 23494  
section whether in the preceding fiscal year the district's ratio 23495  
of instructional personnel to students and its number of 23496  
kindergarten students receiving all-day kindergarten appear 23497  
reasonable, given the amounts of money the district received for 23498  
that fiscal year pursuant to divisions (D) and (E) of this 23499  
section. If the department is unable to verify from the data 23500  
available that students are receiving reasonable amounts of 23501  
instructional attention and all-day kindergarten, given the funds 23502  
the district has received under this section and that class-size 23503  
reduction funds are being used in school buildings with the 23504  
highest concentration of need as required by division (G) of this 23505

section, the department shall conduct a more intensive 23506  
investigation to ensure that funds have been expended as required 23507  
by this section. The department shall file an annual report of its 23508  
findings under this division with the chairpersons of the 23509  
committees in each house of the general assembly dealing with 23510  
finance and education. 23511

(I) Any school district with a DPIA index less than one and a 23512  
three-year average formula ADM exceeding seventeen thousand five 23513  
hundred shall first utilize funds received under this section so 23514  
that, when combined with other funds of the district, sufficient 23515  
funds exist to provide all-day kindergarten to at least the number 23516  
of children in the district's all-day kindergarten percentage. 23517  
Such a district shall expend at least seventy per cent of the 23518  
remaining funds received under this section, and any other 23519  
district with a DPIA index less than one shall expend at least 23520  
seventy per cent of all funds received under this section, for any 23521  
of the following purposes: 23522

(1) The purchase of technology for instructional purposes; 23523

(2) All-day kindergarten; 23524

(3) Reduction of class sizes; 23525

(4) Summer school remediation; 23526

(5) Dropout prevention programs; 23527

(6) Guaranteeing that all third graders are ready to progress 23528  
to more advanced work; 23529

(7) Summer education and work programs; 23530

(8) Adolescent pregnancy programs; 23531

(9) Head start or preschool programs; 23532

(10) Reading improvement programs described by the department 23533  
of education; 23534

(11) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning; 23535  
23536  
23537

(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; 23538  
23539  
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(13) School breakfasts provided pursuant to section 3313.813 of the Revised Code. 23544  
23545

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. 23546  
23547  
23548

(J) If at any time the superintendent of public instruction determines that a school district receiving funds under division (D) of this section has enrolled less than the all-day kindergarten percentage reported for that fiscal year, the superintendent shall withhold from the funds otherwise due the district under this section a proportional amount as determined by the difference in the certified all-day kindergarten percentage and the percentage actually enrolled in all-day kindergarten. 23549  
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The superintendent shall also withhold an appropriate amount of funds otherwise due a district for any other misuse of funds not in accordance with this section. 23557  
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23559

(K)(1) A district may use a portion of the funds calculated for it under division (D) of this section to modify or purchase classroom space to provide all-day kindergarten, if both of the following conditions are met: 23560  
23561  
23562  
23563

(a) The district certifies to the department, in a manner 23564



acceptable to the department, that it has a shortage of space for providing all-day kindergarten. 23565  
23566

(b) The district provides all-day kindergarten to the number of children in the all-day kindergarten percentage it certified under this section. 23567  
23568  
23569

(2) A district may use a portion of the funds described in division (F)(3) of this section to modify or purchase classroom space to enable it to further reduce class size in grades kindergarten through two with a goal of attaining class sizes of fifteen students per licensed teacher. To do so, the district must certify its need for additional space to the department, in a manner satisfactory to the department. 23570  
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**Sec. 3317.0217.** The department of education shall annually compute and pay state parity aid to school districts, as follows: 23577  
23578

(A) Calculate the local wealth per pupil of each school district, which equals the following sum: 23579  
23580

(1) Two-thirds times the quotient of (a) the district's recognized valuation divided by (b) its formula ADM; plus 23581  
23582

(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. 23583  
23584  
23585  
23586

(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. 23587  
23588  
23589

(C) Compute the per pupil state parity aid funding for each school district in accordance with the following formula: 23590  
23591

Payment percentage X (threshold local wealth  
per pupil - the district's local  
wealth per pupil) X 0.0095 23592  
23593  
23594

Where: 23595

(1) "Payment percentage," for purposes of division (C) of 23596  
this section, equals 20% in fiscal year 2002, 40% in fiscal year 23597  
2003, 60% in fiscal year 2004, 80% in fiscal year 2005, and 100% 23598  
after fiscal year 2005. 23599

(2) Nine and one-half mills (0.0095) is the general 23600  
assembly's determination of the average number of effective 23601  
operating mills that districts in the seventieth to ninetieth 23602  
percentiles of valuations per pupil collected in fiscal year 2001 23603  
above the revenues required to finance their attributed local 23604  
shares of the calculated cost of an adequate education. This was 23605  
determined by (a) adding the district revenues from operating 23606  
property tax levies and income tax levies, (b) subtracting from 23607  
that total the sum of (i) twenty-three mills times adjusted 23608  
recognized valuation plus (ii) the attributed local shares of 23609  
special education, transportation, and vocational education 23610  
funding as described in divisions (F)(1) to (3) of section 23611  
3317.022 of the Revised Code, and (c) converting the result to an 23612  
effective operating property tax rate. 23613

(3) The "threshold local wealth per pupil" is the local 23614  
wealth per pupil of the school district with the 23615  
four-hundred-ninetieth lowest local wealth per pupil. 23616

If the result of the calculation for a school district under 23617  
division (C) of this section is less than zero, the district's per 23618  
pupil parity aid shall be zero. 23619

(D) Compute the per pupil alternative parity aid for each 23620  
school district that has a combination of an income factor of 1.0 23621  
or less, a DPIA index of 1.0 or greater, and a 23622  
cost-of-doing-business factor of 1.0375 or greater, in accordance 23623  
with the following formula: 23624

Payment percentage X \$60,000 X 23625

(1 - income factor) X 4/15 X 0.023 23626

Where: 23627

(1) "DPIA index" has the same meaning as in section 3317.029 23628  
of the Revised Code. 23629

(2) "Payment percentage," for purposes of division (D) of 23630  
this section, equals 50% in fiscal year 2002 and 100% after fiscal 23631  
year 2002. 23632

(E) Pay each district that has a combination of an income 23633  
factor 1.0 or less, a DPIA index of 1.0 or greater, and a 23634  
cost-of-doing-business factor of 1.0375 or greater, the greater of 23635  
the following: 23636

(1) The product of the district's per pupil parity aid 23637  
calculated under division (C) of this section times its formula 23638  
ADM; 23639

(2) The product of its per pupil alternative parity aid 23640  
calculated under division (D) of this section times its formula 23641  
ADM. 23642

(F) Pay every other district the product of its per pupil 23643  
parity aid calculated under division (C) of this section times its 23644  
formula ADM. 23645

~~Every six years, the general assembly shall redetermine, 23646  
after considering the report of the committee appointed under 23647  
section 3317.012 of the Revised Code, the average number of 23648  
effective operating mills that districts in the seventieth to 23649  
ninetieth percentiles of valuations per pupil collect above the 23650  
revenues required to finance their attributed local shares of the 23651  
cost of an adequate education. 23652~~

**Sec. 3317.03.** Notwithstanding divisions (A)(1), (B)(1), and 23653  
(C) of this section, any student enrolled in kindergarten more 23654  
than half time shall be reported as one-half student under this 23655

section. 23656

(A) The superintendent of each city and exempted village 23657  
school district and of each educational service center shall, for 23658  
the schools under the superintendent's supervision, certify to the 23659  
state board of education on or before the fifteenth day of October 23660  
in each year for the first full school week in October the formula 23661  
ADM, which shall consist of the average daily membership during 23662  
such week of the sum of the following: 23663

(1) On an FTE basis, the number of students in grades 23664  
kindergarten through twelve receiving any educational services 23665  
from the district, except that the following categories of 23666  
students shall not be included in the determination: 23667

(a) Students enrolled in adult education classes; 23668

(b) Adjacent or other district students enrolled in the 23669  
district under an open enrollment policy pursuant to section 23670  
3313.98 of the Revised Code; 23671

(c) Students receiving services in the district pursuant to a 23672  
compact, cooperative education agreement, or a contract, but who 23673  
are entitled to attend school in another district pursuant to 23674  
section 3313.64 or 3313.65 of the Revised Code; 23675

(d) Students for whom tuition is payable pursuant to sections 23676  
3317.081 and 3323.141 of the Revised Code. 23677

(2) On an FTE basis, the number of students entitled to 23678  
attend school in the district pursuant to section 3313.64 or 23679  
3313.65 of the Revised Code, but receiving educational services in 23680  
grades kindergarten through twelve from one or more of the 23681  
following entities: 23682

(a) A community school pursuant to Chapter 3314. of the 23683  
Revised Code, including any participation in a college pursuant to 23684  
Chapter 3365. of the Revised Code while enrolled in such community 23685

school;	23686
(b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;	23687 23688 23689
(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code;	23690 23691 23692 23693
(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;	23694 23695 23696
(e) An educational service center or cooperative education district;	23697 23698
(f) Another school district under a cooperative education agreement, compact, or contract.	23699 23700
(3) <del>One-fourth</del> <u>Ten per cent</u> of the number of students enrolled in a joint vocational school district or under a vocational education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a vocational education compact;	23701 23702 23703 23704 23705 23706 23707 23708
(4) The number of handicapped children, other than handicapped preschool children, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed with a county MR/DD board, minus the number of such children placed with a county MR/DD board in fiscal year 1998. If this calculation produces a negative number, the number reported under division (A)(4) of this section shall be zero.	23709 23710 23711 23712 23713 23714 23715

(B) To enable the department of education to obtain the data 23716  
needed to complete the calculation of payments pursuant to this 23717  
chapter, in addition to the formula ADM, each superintendent shall 23718  
report separately the following student counts: 23719

(1) The total average daily membership in regular day classes 23720  
included in the report under division (A)(1) or (2) of this 23721  
section for kindergarten, and each of grades one through twelve in 23722  
schools under the superintendent's supervision; 23723

(2) The number of all handicapped preschool children enrolled 23724  
as of the first day of December in classes in the district that 23725  
are eligible for approval ~~by the state board of education~~ under 23726  
division (B) of section 3317.05 of the Revised Code and the number 23727  
of those classes, which shall be reported not later than the 23728  
fifteenth day of December, in accordance with rules adopted under 23729  
that section; 23730

(3) The number of children entitled to attend school in the 23731  
district pursuant to section 3313.64 or 3313.65 of the Revised 23732  
Code who are participating in a pilot project scholarship program 23733  
established under sections 3313.974 to 3313.979 of the Revised 23734  
Code as described in division (I)(2)(a) or (b) of this section, 23735  
are enrolled in a college under Chapter 3365. of the Revised Code, 23736  
except when the student is enrolled in the college while also 23737  
enrolled in a community school pursuant to Chapter 3314. of the 23738  
Revised Code, are enrolled in an adjacent or other school district 23739  
under section 3313.98 of the Revised Code, are enrolled in a 23740  
community school established under Chapter 3314. of the Revised 23741  
Code, including any participation in a college pursuant to Chapter 23742  
3365. of the Revised Code while enrolled in such community school, 23743  
or are participating in a program operated by a county MR/DD board 23744  
or a state institution; 23745

(4) The number of pupils enrolled in joint vocational 23746

schools;	23747
(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;	23748 23749 23750 23751
(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;	23752 23753 23754 23755
(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;	23756 23757 23758 23759
(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;	23760 23761 23762 23763
(9) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;	23764 23765 23766 23767
(10) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code;	23768 23769 23770 23771
(11) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category one vocational education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district, other than a joint vocational school district, or by an educational service center;	23772 23773 23774 23775 23776 23777

(12) The average daily membership of pupils reported under	23778
division (A)(1) or (2) of this section enrolled in category two	23779
vocational education programs or services, described in division	23780
(B) of section 3317.014 of the Revised Code, operated by the	23781
school district or another school district, other than a joint	23782
vocational school district, or by an educational service center;	23783
(13) The average number of children transported by the school	23784
district on board-owned or contractor-owned and -operated buses,	23785
reported in accordance with rules adopted by the department of	23786
education;	23787
(14)(a) The number of children, other than handicapped	23788
preschool children, the district placed with a county MR/DD board	23789
in fiscal year 1998;	23790
(b) The number of handicapped children, other than	23791
handicapped preschool children, placed with a county MR/DD board	23792
in the current fiscal year to receive special education services	23793
for the category one handicap described in division (A) of section	23794
3317.013 of the Revised Code;	23795
(c) The number of handicapped children, other than	23796
handicapped preschool children, placed with a county MR/DD board	23797
in the current fiscal year to receive special education services	23798
for category two handicaps described in division (B) of section	23799
3317.013 of the Revised Code;	23800
(d) The number of handicapped children, other than	23801
handicapped preschool children, placed with a county MR/DD board	23802
in the current fiscal year to receive special education services	23803
for category three handicaps described in division (C) of section	23804
3317.013 of the Revised Code;	23805
(e) The number of handicapped children, other than	23806
handicapped preschool children, placed with a county MR/DD board	23807
in the current fiscal year to receive special education services	23808



for category four handicaps described in division (D) of section 23809  
3317.013 of the Revised Code; 23810

(f) The number of handicapped children, other than 23811  
handicapped preschool children, placed with a county MR/DD board 23812  
in the current fiscal year to receive special education services 23813  
for the category five handicap described in division (E) of 23814  
section 3317.013 of the Revised Code; 23815

(g) The number of handicapped children, other than 23816  
handicapped preschool children, placed with a county MR/DD board 23817  
in the current fiscal year to receive special education services 23818  
for category six handicaps described in division (F) of section 23819  
3317.013 of the Revised Code. 23820

(C)(1) Except as otherwise provided in this section for 23821  
kindergarten students, the average daily membership in divisions 23822  
(B)(1) to (12) of this section shall be based upon the number of 23823  
full-time equivalent students. The state board of education shall 23824  
adopt rules defining full-time equivalent students and for 23825  
determining the average daily membership therefrom for the 23826  
purposes of divisions (A), (B), and (D) of this section. 23827

(2) A student enrolled in a community school established 23828  
under Chapter 3314. of the Revised Code shall be counted in the 23829  
formula ADM and, if applicable, the category one, two, three, 23830  
four, five, or six special education ADM of the school district in 23831  
which the student is entitled to attend school under section 23832  
3313.64 or 3313.65 of the Revised Code for the same proportion of 23833  
the school year that the student is counted in the enrollment of 23834  
the community school for purposes of section 3314.08 of the 23835  
Revised Code. 23836

(3) No child shall be counted as more than a total of one 23837  
child in the sum of the average daily memberships of a school 23838  
district under division (A), divisions (B)(1) to (12), or division 23839

(D) of this section, except as follows: 23840

(a) A child with a handicap described in section 3317.013 of 23841  
the Revised Code may be counted both in formula ADM and in 23842  
category one, two, three, four, five, or six special education ADM 23843  
and, if applicable, in category one or two vocational education 23844  
ADM. As provided in division (C) of section 3317.02 of the Revised 23845  
Code, such a child shall be counted in category one, two, three, 23846  
four, five, or six special education ADM in the same proportion 23847  
that the child is counted in formula ADM. 23848

(b) A child enrolled in vocational education programs or 23849  
classes described in section 3317.014 of the Revised Code may be 23850  
counted both in formula ADM and category one or two vocational 23851  
education ADM and, if applicable, in category one, two, three, 23852  
four, five, or six special education ADM. Such a child shall be 23853  
counted in category one or two vocational education ADM in the 23854  
same proportion as the percentage of time that the child spends in 23855  
the vocational education programs or classes. 23856

(4) Based on the information reported under this section, the 23857  
department of education shall determine the total student count, 23858  
as defined in section 3301.011 of the Revised Code, for each 23859  
school district. 23860

(D)(1) The superintendent of each joint vocational school 23861  
district shall certify to the superintendent of public instruction 23862  
on or before the fifteenth day of October in each year for the 23863  
first full school week in October the formula ADM, which, except 23864  
as otherwise provided in this division, shall consist of the 23865  
average daily membership during such week, on an FTE basis, of the 23866  
number of students receiving any educational services from the 23867  
district, including students enrolled in a community school 23868  
established under Chapter 3314. of the Revised Code who are 23869  
attending the joint vocational district under an agreement between 23870  
the district board of education and the governing authority of the 23871

community school and are entitled to attend school in a city, 23872  
local, or exempted village school district whose territory is part 23873  
of the territory of the joint vocational district. 23874

The following categories of students shall not be included in 23875  
the determination made under division (D)(1) of this section: 23876

(a) Students enrolled in adult education classes; 23877

(b) Adjacent or other district joint vocational students 23878  
enrolled in the district under an open enrollment policy pursuant 23879  
to section 3313.98 of the Revised Code; 23880

(c) Students receiving services in the district pursuant to a 23881  
compact, cooperative education agreement, or a contract, but who 23882  
are entitled to attend school in a city, local, or exempted 23883  
village school district whose territory is not part of the 23884  
territory of the joint vocational district; 23885

(d) Students for whom tuition is payable pursuant to sections 23886  
3317.081 and 3323.141 of the Revised Code. 23887

(2) To enable the department of education to obtain the data 23888  
needed to complete the calculation of payments pursuant to this 23889  
chapter, in addition to the formula ADM, each superintendent shall 23890  
report separately the average daily membership included in the 23891  
report under division (D)(1) of this section for each of the 23892  
following categories of students: 23893

(a) Students enrolled in each grade included in the joint 23894  
vocational district schools; 23895

(b) Handicapped children receiving special education services 23896  
for the category one handicap described in division (A) of section 23897  
3317.013 of the Revised Code; 23898

(c) Handicapped children receiving special education services 23899  
for the category two handicaps described in division (B) of 23900  
section 3317.013 of the Revised Code; 23901

(d) Handicapped children receiving special education services	23902
for category three handicaps described in division (C) of section	23903
3317.013 of the Revised Code;	23904
(e) Handicapped children receiving special education services	23905
for category four handicaps described in division (D) of section	23906
3317.013 of the Revised Code;	23907
(f) Handicapped children receiving special education services	23908
for the category five handicap described in division (E) of	23909
section 3317.013 of the Revised Code;	23910
(g) Handicapped children receiving special education services	23911
for category six handicaps described in division (F) of section	23912
3317.013 of the Revised Code;	23913
(h) Students receiving category one vocational education	23914
services, described in division (A) of section 3317.014 of the	23915
Revised Code;	23916
(i) Students receiving category two vocational education	23917
services, described in division (B) of section 3317.014 of the	23918
Revised Code.	23919
The superintendent of each joint vocational school district	23920
shall also indicate the city, local, or exempted village school	23921
district in which each joint vocational district pupil is entitled	23922
to attend school pursuant to section 3313.64 or 3313.65 of the	23923
Revised Code.	23924
(E) In each school of each city, local, exempted village,	23925
joint vocational, and cooperative education school district there	23926
shall be maintained a record of school membership, which record	23927
shall accurately show, for each day the school is in session, the	23928
actual membership enrolled in regular day classes. For the purpose	23929
of determining average daily membership, the membership figure of	23930
any school shall not include any pupils except those pupils	23931

described by division (A) of this section. The record of 23932  
membership for each school shall be maintained in such manner that 23933  
no pupil shall be counted as in membership prior to the actual 23934  
date of entry in the school and also in such manner that where for 23935  
any cause a pupil permanently withdraws from the school that pupil 23936  
shall not be counted as in membership from and after the date of 23937  
such withdrawal. There shall not be included in the membership of 23938  
any school any of the following: 23939

(1) Any pupil who has graduated from the twelfth grade of a 23940  
public high school; 23941

(2) Any pupil who is not a resident of the state; 23942

(3) Any pupil who was enrolled in the schools of the district 23943  
during the previous school year when tests were administered under 23944  
section 3301.0711 of the Revised Code but did not take one or more 23945  
of the tests required by that section and was not excused pursuant 23946  
to division (C)(1) of that section; 23947

(4) Any pupil who has attained the age of twenty-two years, 23948  
except for veterans of the armed services whose attendance was 23949  
interrupted before completing the recognized twelve-year course of 23950  
the public schools by reason of induction or enlistment in the 23951  
armed forces and who apply for reenrollment in the public school 23952  
system of their residence not later than four years after 23953  
termination of war or their honorable discharge. 23954

If, however, any veteran described by division (E)(4) of this 23955  
section elects to enroll in special courses organized for veterans 23956  
for whom tuition is paid under the provisions of federal laws, or 23957  
otherwise, that veteran shall not be included in average daily 23958  
membership. 23959

Notwithstanding division (E)(3) of this section, the 23960  
membership of any school may include a pupil who did not take a 23961  
test required by section 3301.0711 of the Revised Code if the 23962

superintendent of public instruction grants a waiver from the 23963  
requirement to take the test to the specific pupil. The 23964  
superintendent may grant such a waiver only for good cause in 23965  
accordance with rules adopted by the state board of education. 23966

Except as provided in divisions (B)(2) and (F) of this 23967  
section, the average daily membership figure of any local, city, 23968  
exempted village, or joint vocational school district shall be 23969  
determined by dividing the figure representing the sum of the 23970  
number of pupils enrolled during each day the school of attendance 23971  
is actually open for instruction during the first full school week 23972  
in October by the total number of days the school was actually 23973  
open for instruction during that week. For purposes of state 23974  
funding, "enrolled" persons are only those pupils who are 23975  
attending school, those who have attended school during the 23976  
current school year and are absent for authorized reasons, and 23977  
those handicapped children currently receiving home instruction. 23978

The average daily membership figure of any cooperative 23979  
education school district shall be determined in accordance with 23980  
rules adopted by the state board of education. 23981

(F)(1) If the formula ADM for the first full school week in 23982  
February is at least three per cent greater than that certified 23983  
for the first full school week in the preceding October, the 23984  
superintendent of schools of any city, exempted village, or joint 23985  
vocational school district or educational service center shall 23986  
certify such increase to the superintendent of public instruction. 23987  
Such certification shall be submitted no later than the fifteenth 23988  
day of February. For the balance of the fiscal year, beginning 23989  
with the February payments, the superintendent of public 23990  
instruction shall use the increased formula ADM in calculating or 23991  
recalculating the amounts to be allocated in accordance with 23992  
section 3317.022 or 3317.16 of the Revised Code. In no event shall 23993  
the superintendent use an increased membership certified to the 23994

superintendent after the fifteenth day of February. 23995

(2) If on the first school day of April the total number of 23996  
classes or units for handicapped preschool children that are 23997  
eligible for approval under division (B) of section 3317.05 of the 23998  
Revised Code exceeds the number of units that have been approved 23999  
for the year under that division, the superintendent of schools of 24000  
any city, exempted village, or cooperative education school 24001  
district or educational service center shall make the 24002  
certifications required by this section for that day. If the ~~state~~ 24003  
~~board of education~~ department determines additional units can be 24004  
approved for the fiscal year within any limitations set forth in 24005  
the acts appropriating moneys for the funding of such units, the 24006  
~~board~~ department shall approve additional units for the fiscal 24007  
year on the basis of such average daily membership. For each unit 24008  
so approved, the department ~~of education~~ shall pay an amount 24009  
computed in the manner prescribed in section 3317.052 or 3317.19 24010  
and section 3317.053 of the Revised Code. 24011

(3) If a student attending a community school under Chapter 24012  
3314. of the Revised Code is not included in the formula ADM 24013  
certified for the first full school week of October for the school 24014  
district in which the student is entitled to attend school under 24015  
section 3313.64 or 3313.65 of the Revised Code, the department of 24016  
education shall adjust the formula ADM of that school district to 24017  
include the community school student in accordance with division 24018  
(C)(2) of this section, and shall recalculate the school 24019  
district's payments under this chapter for the entire fiscal year 24020  
on the basis of that adjusted formula ADM. This requirement 24021  
applies regardless of whether the student was enrolled, as defined 24022  
in division (E) of this section, in the community school during 24023  
the first full school week in October. 24024

(G)(1)(a) The superintendent of an institution operating a 24025  
special education program pursuant to section 3323.091 of the 24026

Revised Code shall, for the programs under such superintendent's supervision, certify to the state board of education the average daily membership of all handicapped children in classes or programs approved annually by the ~~state board~~ department of education, in the manner prescribed by the superintendent of public instruction.

(b) The superintendent of an institution with vocational education units approved under division (A) of section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the average daily membership in those units, in the manner prescribed by the superintendent of public instruction.

(2) The superintendent of each county MR/DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved ~~by the state board of education~~ pursuant to section 3317.05 of the Revised Code shall do both of the following:

(a) Certify to the state board, in the manner prescribed by the board, the average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes;

(b) Certify to the stateboard, in the manner prescribed by the board, the number of all handicapped preschool children enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes.

(3)(a) If on the first school day of April the number of classes or units maintained for handicapped preschool children by the county MR/DD board that are eligible for approval under division (B) of section 3317.05 of the Revised Code is greater than the number of units approved for the year under that



division, the superintendent shall make the certification required 24058  
by this section for that day. 24059

(b) If the ~~state board~~ department determines that additional 24060  
classes or units can be approved for the fiscal year within any 24061  
limitations set forth in the acts appropriating moneys for the 24062  
funding of the classes and units described in division (G)(3)(a) 24063  
of this section, the ~~board~~ department shall approve and fund 24064  
additional units for the fiscal year on the basis of such average 24065  
daily membership. For each unit so approved, the department ~~of~~ 24066  
~~education~~ shall pay an amount computed in the manner prescribed in 24067  
sections 3317.052 and 3317.053 of the Revised Code. 24068

(H) Except as provided in division (I) of this section, when 24069  
any city, local, or exempted village school district provides 24070  
instruction for a nonresident pupil whose attendance is 24071  
unauthorized attendance as defined in section 3327.06 of the 24072  
Revised Code, that pupil's membership shall not be included in 24073  
that district's membership figure used in the calculation of that 24074  
district's formula ADM or included in the determination of any 24075  
unit approved for the district under section 3317.05 of the 24076  
Revised Code. The reporting official shall report separately the 24077  
average daily membership of all pupils whose attendance in the 24078  
district is unauthorized attendance, and the membership of each 24079  
such pupil shall be credited to the school district in which the 24080  
pupil is entitled to attend school under division (B) of section 24081  
3313.64 or section 3313.65 of the Revised Code as determined by 24082  
the department of education. 24083

(I)(1) A city, local, exempted village, or joint vocational 24084  
school district admitting a scholarship student of a pilot project 24085  
district pursuant to division (C) of section 3313.976 of the 24086  
Revised Code may count such student in its average daily 24087  
membership. 24088

(2) In any year for which funds are appropriated for pilot 24089

project scholarship programs, a school district implementing a 24090  
state-sponsored pilot project scholarship program that year 24091  
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 24092  
count in average daily membership: 24093

(a) All children residing in the district and utilizing a 24094  
scholarship to attend kindergarten in any alternative school, as 24095  
defined in section 3313.974 of the Revised Code; 24096

(b) All children who were enrolled in the district in the 24097  
preceding year who are utilizing a scholarship to attend any such 24098  
alternative school. 24099

(J) The superintendent of each cooperative education school 24100  
district shall certify to the superintendent of public 24101  
instruction, in a manner prescribed by the state board of 24102  
education, the applicable average daily memberships for all 24103  
students in the cooperative education district, also indicating 24104  
the city, local, or exempted village district where each pupil is 24105  
entitled to attend school under section 3313.64 or 3313.65 of the 24106  
Revised Code. 24107

**Sec. 3317.032.** (A) Each city, local, exempted village, and 24108  
cooperative education school district, each educational service 24109  
center, each county MR/DD board, and each institution operating a 24110  
special education program pursuant to section 3323.091 of the 24111  
Revised Code shall, in accordance with procedures adopted by the 24112  
state board of education, maintain a record of district membership 24113  
of both of the following: 24114

(1) All handicapped preschool children in units approved 24115  
under division (B) of section 3317.05 of the Revised Code; 24116

(2) All handicapped preschool children who are not in units 24117  
approved ~~by the state board~~ under division (B) of section 3317.05 24118  
of the Revised Code but who are otherwise served by a special 24119

education program. 24120

(B) The superintendent of each district, board, or 24121  
institution subject to division (A) of this section shall certify 24122  
to the state board of education, in accordance with procedures 24123  
adopted by that board, membership figures of all handicapped 24124  
preschool children whose membership is maintained under division 24125  
(A)(2) of this section. The figures certified under this division 24126  
shall be used in the determination of the ADM used to compute 24127  
funds for educational service center governing boards under 24128  
~~division (B) of~~ section 3317.11 of the Revised Code. 24129

**Sec. 3317.05.** (A) For the purpose of calculating payments 24130  
under sections 3317.052 and 3317.053 of the Revised Code, the 24131  
~~state board~~ department of education shall determine for each 24132  
institution, by the last day of January of each year and based on 24133  
information certified under section 3317.03 of the Revised Code, 24134  
the number of vocational education units or fractions of units 24135  
approved by the ~~state board~~ department on the basis of standards 24136  
and rules adopted by the state board of education. As used in this 24137  
division, "institution" means an institution operated by a 24138  
department specified in section 3323.091 of the Revised Code and 24139  
that provides vocational education programs under the supervision 24140  
of the division of vocational education of the department ~~of~~ 24141  
~~education~~ that meet the standards and rules for these programs, 24142  
including licensure of professional staff involved in the 24143  
programs, as established by the state board ~~of education~~. 24144

(B) For the purpose of calculating payments under sections 24145  
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 24146  
~~state board~~ department shall determine, based on information 24147  
certified under section 3317.03 of the Revised Code, the following 24148  
by the last day of January of each year for each educational 24149  
service center, for each school district, including each 24150

cooperative education school district, for each institution 24151  
eligible for payment under section 3323.091 of the Revised Code, 24152  
and for each county MR/DD board: the number of classes operated by 24153  
the school district, service center, institution, or county MR/DD 24154  
board for handicapped preschool children, or fraction thereof, 24155  
including in the case of a district or service center that is a 24156  
funding agent, classes taught by a licensed teacher employed by 24157  
that district or service center under section 3313.841 of the 24158  
Revised Code, approved annually by the ~~state board~~ department on 24159  
the basis of standards and rules adopted by the state board. 24160

(C) For the purpose of calculating payments under sections 24161  
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 24162  
~~state board~~ department shall determine, based on information 24163  
certified under section 3317.03 of the Revised Code, the following 24164  
by the last day of January of each year for each school district, 24165  
including each cooperative education school district, for each 24166  
institution eligible for payment under section 3323.091 of the 24167  
Revised Code, and for each county MR/DD board: the number of 24168  
preschool handicapped related services units for child study, 24169  
occupational, physical, or speech and hearing therapy, special 24170  
education supervisors, and special education coordinators approved 24171  
annually by the ~~state board~~ department on the basis of standards 24172  
and rules adopted by the state board. 24173

(D) For the purpose of calculating payments under sections 24174  
3317.052 and 3317.053 of the Revised Code, the ~~state board~~ 24175  
department shall determine, based on information certified under 24176  
section 3317.03 of the Revised Code, the following by the last day 24177  
of January of each year for each institution eligible for payment 24178  
under section 3323.091 of the Revised Code: 24179

(1) The number of classes operated by an institution for 24180  
handicapped children other than handicapped preschool children, or 24181  
fraction thereof, approved annually by the ~~state board~~ department 24182

on the basis of standards and rules adopted by the state board; 24183

(2) The number of related services units for children other 24184  
than handicapped preschool children for child study, occupational, 24185  
physical, or speech and hearing therapy, special education 24186  
supervisors, and special education coordinators approved annually 24187  
by the ~~state board~~ department on the basis of standards and rules 24188  
adopted by the state board. 24189

(E) All of the arithmetical calculations made under this 24190  
section shall be carried to the second decimal place. The total 24191  
number of units for school districts, service centers, and 24192  
institutions approved annually ~~by the state board~~ under this 24193  
section shall not exceed the number of units included in the ~~state~~ 24194  
~~board's~~ estimate of cost for these units and appropriations made 24195  
for them by the general assembly. 24196

In the case of units described in division (D)(1) of this 24197  
section operated by institutions eligible for payment under 24198  
section 3323.091 of the Revised Code, the ~~state board~~ department 24199  
shall approve only units for persons who are under age twenty-two 24200  
on the first day of the academic year, but not less than six years 24201  
of age on the thirtieth day of September of that year, except that 24202  
such a unit may include one or more children who are under six 24203  
years of age on the thirtieth day of September if such children 24204  
have been admitted to the unit pursuant to rules of the state 24205  
board. In the case of handicapped preschool units described in 24206  
division (B) of this section ~~operated by county MR/DD boards and~~ 24207  
~~institutions eligible for payment under section 3323.091 of the~~ 24208  
~~Revised Code,~~ the ~~state board~~ department shall approve only 24209  
preschool units for children who are under age six but not less 24210  
than age three on the ~~thirtieth~~ first day of ~~September~~ December of 24211  
the academic year, except that such a unit may include one or more 24212  
children who are under age three or are age six or over on the 24213  
~~thirtieth~~ first day of ~~September~~ December, as reported under 24214

division (B)(2) or (G)(2)(b) of section 3317.03 of the Revised Code, if such children have been admitted to the unit pursuant to rules of the state board ~~of education~~. The number of units for county MR/DD boards and institutions eligible for payment under section 3323.091 of the Revised Code approved ~~by the state board~~ under this section shall not exceed the number that can be funded with appropriations made for such purposes by the general assembly.

No unit shall be approved under divisions (B) to (D) of this section unless a plan has been submitted and approved under Chapter 3323. of the Revised Code.

(F) The department shall approve units or fractions thereof for gifted children on the basis of standards and rules adopted by the state board.

**Sec. 3317.064.** (A) There is hereby established in the state treasury the auxiliary services ~~mobile unit replacement and repair reimbursement~~ fund. By the thirtieth day of January of each odd-numbered year, the director of job and family services and the superintendent of public instruction shall determine the amount of any excess moneys in the auxiliary services personnel unemployment compensation fund not reasonably necessary for the purposes of section 4141.47 of the Revised Code, and shall certify such amount to the director of budget and management for transfer to the auxiliary services ~~mobile unit replacement and repair reimbursement~~ fund. If the director of job and family services and the superintendent disagree on such amount, the director of budget and management shall determine the amount to be transferred.

(B) Moneys in the auxiliary services ~~mobile unit replacement and repair reimbursement~~ fund shall be used for the relocation or for the replacement and repair of mobile units used to provide the services specified in division (E), (F), (G), or (I) of section

3317.06 of the Revised Code. The state board of education shall 24246  
adopt guidelines and procedures for replacement, repair, and 24247  
relocation of mobile units and the procedures under which a school 24248  
district may apply to receive moneys with which to repair or 24249  
replace or relocate such units. 24250

(C) School districts may apply to the department for moneys 24251  
from the auxiliary services ~~mobile unit replacement and repair~~ 24252  
reimbursement fund for payment of incentives for early retirement 24253  
and severance for school district personnel assigned to provide 24254  
services authorized by section 3317.06 of the Revised Code at 24255  
chartered nonpublic schools. The portion of the cost of any early 24256  
retirement or severance incentive for any employee that is paid 24257  
using money from the auxiliary services ~~mobile unit replacement~~ 24258  
~~and repair~~ reimbursement fund shall not exceed the percentage of 24259  
such employee's total service credit that the employee spent 24260  
providing services to chartered nonpublic school students under 24261  
section 3317.06 of the Revised Code. 24262

**Sec. 3317.07.** The state board of education shall establish 24263  
rules for the purpose of distributing subsidies for the purchase 24264  
of school buses under division (E) of section 3317.024 of the 24265  
Revised Code. 24266

No school bus subsidy payments shall be paid to any district 24267  
unless such district can demonstrate that pupils residing more 24268  
than one mile from the school could not be transported without 24269  
such additional aid. 24270

The amount paid to a county MR/DD board for buses purchased 24271  
for transportation of children in special education programs 24272  
operated by the board shall be one hundred per cent of the board's 24273  
net cost. 24274

The amount paid to a school district for buses purchased for 24275  
transportation of handicapped and nonpublic school pupils shall be 24276

one hundred per cent of the school district's net cost. 24277

The state board of education shall adopt a formula to 24278  
determine the amount of payments that shall be distributed to 24279  
school districts to purchase school buses for pupils other than 24280  
handicapped or nonpublic school pupils. 24281

If any district or MR/DD board obtains bus services for pupil 24282  
transportation pursuant to a contract, such district or board may 24283  
use payments received under this section to defray the costs of 24284  
contracting for bus services in lieu of for purchasing buses. 24285

If the department of education determines that a county MR/DD 24286  
board no longer needs a school bus because the board no longer 24287  
transports children to a special education program operated by the 24288  
board, or if the department determines that a school district no 24289  
longer needs a school bus to transport pupils to a nonpublic 24290  
school or special education program, the department may reassign a 24291  
bus that was funded with payments provided pursuant to this 24292  
section for the purpose of transporting such pupils. The 24293  
department may reassign a bus to a county MR/DD board or school 24294  
district that transports children to a special education program 24295  
designated in the children's individualized education plans, or to 24296  
a school district that transports pupils to a nonpublic school, 24297  
and needs an additional school bus. 24298

**Sec. 3317.09.** All moneys distributed to a school district, 24299  
including any cooperative education or joint vocational school 24300  
district and all moneys distributed to any educational service 24301  
center, by the state whether from a state or federal source, shall 24302  
be accounted for by the division of school finance of the 24303  
department of education. All moneys distributed shall be coded as 24304  
to county, school district or educational service center, source, 24305  
and other pertinent information, and at the end of each month, a 24306  
report of such distribution shall be made by such division of 24307



school finance to the clerk of the senate and the chief 24308  
administrative officer of the house of representatives, to the 24309  
Ohio legislative service commission to be available for 24310  
examination by any member of either house, to each school district 24311  
and educational service center, and to the governor. 24312

On or before the first day of September in each year, a copy 24313  
of the annual statistical report required in ~~sections~~ section 24314  
3319.33 ~~and 3319.34~~ of the Revised Code shall be filed by the 24315  
state board of education with the clerk of the senate and the 24316  
chief administrative officer of the house of representatives, the 24317  
Ohio legislative service commission, the governor, and the auditor 24318  
of state. The report shall contain an analysis for the prior 24319  
fiscal year on an accrual basis of revenue receipts from all 24320  
sources and expenditures for all purposes for each school district 24321  
~~and each educational service center~~, including each joint 24322  
vocational and cooperative education school district, in the 24323  
state. If any board of education ~~or any educational service center~~ 24324  
~~governing board~~ fails to make the report required in ~~sections~~ 24325  
section 3319.33 ~~and 3319.34~~ of the Revised Code, the 24326  
superintendent of public instruction shall be without authority to 24327  
distribute funds to that school district or educational service 24328  
center pursuant to sections 3317.022 to 3317.0212, 3317.11, 24329  
3317.16, 3317.17, or 3317.19 of the Revised Code until such time 24330  
as the required reports are filed with all specified officers, 24331  
boards, or agencies. 24332

**Sec. 3317.10.** (A) On or before the first day of March of each 24333  
year, the department of job and family services shall certify to 24334  
the state board of education the unduplicated number of children 24335  
ages five through seventeen residing in each school district and 24336  
living in a family that, during the preceding October, had family 24337  
income not exceeding the federal poverty guidelines as defined in 24338  
section 5101.46 of the Revised Code and participated in one of the 24339

following:	24340
(1) Ohio works first;	24341
(2) The food stamp program;	24342
(3) The medical assistance program, including the healthy start program, established under Chapter 5111. of the Revised Code;	24343 24344 24345
(4) The children's health insurance program part I established under section 5101.50 of the Revised Code;	24346 24347
(5) The disability <u>financial</u> assistance program established under Chapter 5115. of the Revised Code;	24348 24349
<u>(6) The disability medical assistance program established under Chapter 5115. of the Revised Code.</u>	24350 24351
The department of job and family services shall certify this information according to the school district of residence for each child. Except as provided under division (B) of this section, the number of children so certified in any year shall be used by the department of education in calculating the distribution of moneys for the ensuing fiscal year as provided in section 3317.029 of the Revised Code.	24352 24353 24354 24355 24356 24357 24358
(B) Upon the transfer of part of the territory of one school district to the territory of one or more other school districts, the department of education may adjust the number of children certified under division (A) of this section for any district gaining or losing territory in such a transfer in order to take into account the effect of the transfer on the number of such children who reside in the district. Within sixty days of receipt of a request for information from the department of education, the department of job and family services shall provide any information the department of education determines is necessary to make such adjustments. The department of education may use the	24359 24360 24361 24362 24363 24364 24365 24366 24367 24368 24369

adjusted number for any district for the applicable fiscal year, 24370  
in lieu of the number certified for the district for that fiscal 24371  
year under division (A) of this section, in the calculation of the 24372  
distribution of moneys provided in section 3317.029 of the Revised 24373  
Code. 24374

Sec. 3317.11. (A) As used in this section: 24375

(1) "Client school district" means a city or exempted village 24376  
school district that has entered into an agreement under section 24377  
3313.843 of the Revised Code to receive any services from an 24378  
educational service center. 24379

(2) "Service center ADM" means the sum of the total student 24380  
counts of all local school districts within an educational service 24381  
center's territory and all of the service center's client school 24382  
districts. 24383

(3) "Total student count" has the same meaning as in section 24384  
3301.011 of the Revised Code. 24385

(B)(1) The governing board of each educational service center 24386  
shall provide supervisory services to each local school district 24387  
within the service center's territory. Each city or exempted 24388  
village school district that enters into an agreement under 24389  
section 3313.843 of the Revised Code for a governing board to 24390  
provide any services also is considered to be provided supervisory 24391  
services by the governing board. Except as provided in division 24392  
(B)(2) of this section, the supervisory services shall not exceed 24393  
one supervisory teacher for the first fifty classroom teachers 24394  
required to be employed in the districts, as calculated under 24395  
section 3317.023 of the Revised Code, and one for each additional 24396  
one hundred required classroom teachers, as so calculated. 24397

The supervisory services shall be financed annually through 24398  
supervisory units. Except as provided in division (B)(2) of this 24399

section, the number of supervisory units assigned to each district 24400  
shall not exceed one unit for the first fifty classroom teachers 24401  
required to be employed in the district, as calculated under 24402  
section 3317.023 of the Revised Code, and one for each additional 24403  
one hundred required classroom teachers, as so calculated. The 24404  
cost of each supervisory unit shall be the sum of: 24405

(a) The minimum salary prescribed by section 3317.13 of the 24406  
Revised Code for the licensed supervisory employee of the 24407  
governing board; 24408

(b) An amount equal to fifteen per cent of the salary 24409  
prescribed by section 3317.13 of the Revised Code; 24410

(c) An allowance for necessary travel expenses, limited to 24411  
the lesser of two hundred twenty-three dollars and sixteen cents 24412  
per month or two thousand six hundred seventy-eight dollars per 24413  
year. 24414

(2) If a majority of the boards of education, or 24415  
superintendents acting on behalf of the boards, of the local and 24416  
client school districts receiving services from the educational 24417  
service center agree to receive additional supervisory services 24418  
and to pay the cost of a corresponding number of supervisory units 24419  
in excess of the services and units specified in division (B)(1) 24420  
of this section, the service center shall provide the additional 24421  
services as agreed to by the majority of districts to, and the 24422  
department of education shall apportion the cost of the 24423  
corresponding number of additional supervisory units pursuant to 24424  
division (B)(3) of this section among, all of the service center's 24425  
local and client school districts. 24426

(3) The department shall apportion the total cost for all 24427  
supervisory units among the service center's local and client 24428  
school districts based on each district's total student count. The 24429  
department shall deduct each district's apportioned share pursuant 24430

to division (E) of section 3317.023 of the Revised Code and pay 24431  
the apportioned share to the service center. 24432

(C) The department annually shall deduct from each local and 24433  
client school district of each educational service center, 24434  
pursuant to division (E) of section 3317.023 of the Revised Code, 24435  
and pay to the service center an amount equal to six dollars and 24436  
fifty cents times the school district's total student count. The 24437  
board of education, or the superintendent acting on behalf of the 24438  
board, of any local or client school district may agree to pay an 24439  
amount in excess of six dollars and fifty cents per student in 24440  
total student count. If a majority of the boards of education, or 24441  
superintendents acting on behalf of the boards, of the local 24442  
school districts within a service center's territory approve an 24443  
amount in excess of six dollars and fifty cents per student in 24444  
total student count, the department shall deduct the approved 24445  
excess per student amount from all of the local school districts 24446  
within the service center's territory and pay the excess amount to 24447  
the service center. 24448

(D) The department shall pay each educational service center 24449  
the amounts due to it from school districts pursuant to contracts, 24450  
compacts, or agreements under which the service center furnishes 24451  
services to the districts or their students. In order to receive 24452  
payment under this division, an educational service center shall 24453  
furnish either a copy of the contract, compact, or agreement 24454  
clearly indicating the amounts of the payments, or a written 24455  
statement that clearly indicates the payments owed and is signed 24456  
by the superintendent or treasurer of the responsible school 24457  
district. The amounts paid to service centers under this division 24458  
shall be deducted from payments to school districts pursuant to 24459  
division (K)(3) of section 3317.023 of the Revised Code. 24460

(E) Each school district's deduction under this section and 24461  
divisions (E) and (K)(3) of section 3317.023 of the Revised Code 24462

shall be made from the total payment computed for the district 24463  
under this chapter, after making any other adjustments in that 24464  
payment required by law. 24465

(F)(1) Except as provided in division (F)(2) of this section, 24466  
the department annually shall pay the governing board of each 24467  
educational service center state funds equal to thirty-seven 24468  
dollars times its service center ADM. 24469

(2) The department annually shall pay state funds equal to 24470  
forty dollars and fifty-two cents times the service center ADM to 24471  
each educational service center comprising territory that was 24472  
included in the territory of at least three former service centers 24473  
or county school districts, which former centers or districts 24474  
engaged in one or more mergers under section 3311.053 of the 24475  
Revised Code to form the present center. 24476

(G) Each city, exempted village, local, joint vocational, or 24477  
cooperative education school district shall pay to the governing 24478  
board of an educational service center any amounts agreed to for 24479  
each child enrolled in the district who receives special education 24480  
and related services or career-technical education from the 24481  
educational service center, unless these educational services are 24482  
provided pursuant to a contract, compact, or agreement for which 24483  
the department deducts and transfers payments under division (D) 24484  
of this section and division (K)(3) of section 3317.023 of the 24485  
Revised Code. 24486

(H) An educational service center: 24487

(1) May provide special education and career-technical 24488  
education to students in its local or client school districts; 24489

(2) Is eligible for transportation funding under division (J) 24490  
of section 3317.024 of the Revised Code and for state subsidies 24491  
for the purchase of school buses under section 3317.07 of the 24492  
Revised Code; 24493

<u>(3) May apply for and receive gifted education units and</u>	24494
<u>provide gifted education services to students in its local or</u>	24495
<u>client school districts;</u>	24496
<u>(4) May conduct driver education for high school students in</u>	24497
<u>accordance with Chapter 4508. of the Revised Code.</u>	24498
<b>Sec. 3317.15.</b> (A) As used in this section, "handicapped	24499
child" has the same meaning as in section 3323.01 of the Revised	24500
Code.	24501
(B) Each city, exempted village, local, and joint vocational	24502
school district shall continue to comply with all requirements of	24503
federal statutes and regulations, the Revised Code, and rules	24504
adopted by the state board of education governing education of	24505
handicapped children, including, but not limited to, requirements	24506
that handicapped children be served by appropriately licensed or	24507
certificated education personnel.	24508
(C) Each city, exempted village, local, and joint vocational	24509
school district shall consult with the educational service center	24510
serving the county in which the school district is located and, if	24511
it elects to participate pursuant to section 5126.04 of the	24512
Revised Code, the county MR/DD board of that county, in providing	24513
services that serve the best interests of handicapped children.	24514
(D) Each school district shall annually provide documentation	24515
to the department of education that it employs the appropriate	24516
number of licensed or certificated personnel to serve the	24517
district's handicapped students.	24518
(E) The department annually shall audit a sample of school	24519
districts to ensure that handicapped children are being	24520
appropriately reported.	24521
(F) Each school district shall provide speech-language	24522
pathology services at a ratio of one speech-language pathologist	24523

per two thousand students receiving any educational services from 24524  
the district other than adult education. A speech-language 24525  
pathologist employed on a full-time equivalent basis shall provide 24526  
services to no more than fifty-five school-age handicapped 24527  
children at any one time. Each district shall provide school 24528  
psychological services at a ratio of one school psychologist per 24529  
two thousand five hundred students receiving any educational 24530  
services from the district other than adult education. A district 24531  
may obtain the services of speech-language pathologists and school 24532  
psychologists by any means permitted by law, including contracting 24533  
with an educational service center. If, however, a district is 24534  
unable to obtain the services of the required number of 24535  
speech-language pathologists or school psychologists, the district 24536  
may request from the superintendent of public instruction, and the 24537  
superintendent may grant, a waiver of this provision for a period 24538  
of time established by the superintendent. 24539

**Sec. 3317.16.** (A) As used in this section: 24540

(1) "State share percentage" means the percentage calculated 24541  
for a joint vocational school district as follows: 24542

(a) Calculate the state base cost funding amount for the 24543  
district under division (B) of this section. If the district would 24544  
not receive any base cost funding for that year under that 24545  
division, the district's state share percentage is zero. 24546

(b) If the district would receive base cost funding under 24547  
that division, divide that base cost amount by an amount equal to 24548  
the following: 24549

cost-of-doing-business factor X 24550

the formula amount X 24551

~~the greater of formula ADM or~~ 24552

~~three-year average~~ formula ADM 24553

The resultant number is the district's state share 24554



percentage. 24555

(2) The "total special education weight" for a joint 24556  
vocational school district shall be calculated in the same manner 24557  
as prescribed in division (B)(1) of section 3317.022 of the 24558  
Revised Code. 24559

(3) The "total vocational education weight" for a joint 24560  
vocational school district shall be calculated in the same manner 24561  
as prescribed in division (B)(4) of section 3317.022 of the 24562  
Revised Code. 24563

(4) The "total recognized valuation" of a joint vocational 24564  
school district shall be determined by adding the recognized 24565  
valuations of all its constituent school districts for the 24566  
applicable fiscal year. 24567

(5) "Resident district" means the city, local, or exempted 24568  
village school district in which a student is entitled to attend 24569  
school under section 3313.64 or 3313.65 of the Revised Code. 24570

(6) "Community school" means a community school established 24571  
under Chapter 3314. of the Revised Code. 24572

(B) The department of education shall compute and distribute 24573  
state base cost funding to each joint vocational school district 24574  
for the fiscal year in accordance with the following formula: 24575

(cost-of-doing-business factor X 24576  
formula amount X ~~the greater of formula 24577  
ADM or three year average formula ADM) - 24578  
(.0005 X total recognized valuation) 24579~~

If the difference obtained under this division is a negative 24580  
number, the district's computation shall be zero. 24581

(C)(1) The department shall compute and distribute state 24582  
vocational education additional weighted costs funds to each joint 24583  
vocational school district in accordance with the following 24584

formula: 24585

state share percentage X formula amount X 24586

total vocational education weight 24587

In each fiscal year, a joint vocational school district 24588

receiving funds under division (C)(1) of this section shall spend 24589

those funds only for the purposes the department designates as 24590

approved for vocational education expenses. Vocational educational 24591

expenses approved by the department shall include only expenses 24592

connected to the delivery of career-technical programming to 24593

career-technical students. The department shall require the joint 24594

vocational school district to report data annually so that the 24595

department may monitor the district's compliance with the 24596

requirements regarding the manner in which funding received under 24597

division (C)(1) of this section may be spent. 24598

(2) The department shall compute for each joint vocational 24599

school district state funds for vocational education associated 24600

services costs in accordance with the following formula: 24601

state share percentage X .05 X 24602

the formula amount X the sum of 24603

categories one and two vocational 24604

education ADM 24605

In any fiscal year, a joint vocational school district 24606

receiving funds under division (C)(2) of this section, or through 24607

a transfer of funds pursuant to division (L) of section 3317.023 24608

of the Revised Code, shall spend those funds only for the purposes 24609

that the department designates as approved for vocational 24610

education associated services expenses, which may include such 24611

purposes as apprenticeship coordinators, coordinators for other 24612

vocational education services, vocational evaluation, and other 24613

purposes designated by the department. The department may deny 24614

payment under division (C)(2) of this section to any district that 24615

the department determines is not operating those services or is 24616

using funds paid under division (C)(2) of this section, or through 24617  
a transfer of funds pursuant to division (L) of section 3317.023 24618  
of the Revised Code, for other purposes. 24619

(D)(1) The department shall compute and distribute state 24620  
special education and related services additional weighted costs 24621  
funds to each joint vocational school district in accordance with 24622  
the following formula: 24623

state share percentage X formula amount X 24624  
total special education weight 24625

(2)(a) As used in this division, the "personnel allowance" 24626  
means thirty thousand dollars in fiscal years 2002 ~~and~~, 2003, 24627  
2004, and 2005. 24628

(b) For the provision of speech services to students, 24629  
including students who do not have individualized education 24630  
programs prepared for them under Chapter 3323. of the Revised 24631  
Code, and for no other purpose, the department shall pay each 24632  
joint vocational school district an amount calculated under the 24633  
following formula: 24634

(formula ADM divided by 2000) X the personnel 24635  
allowance X state share percentage 24636

(3) In any fiscal year, a joint vocational school district 24637  
shall spend for purposes that the department designates as 24638  
approved for special education and related services expenses at 24639  
least the amount calculated as follows: 24640

(cost-of-doing-business factor X formula amount 24641  
X the sum of categories one through 24642  
six special education ADM) + 24643  
(total special education weight X 24644  
formula amount) 24645

The purposes approved by the department for special education 24646  
expenses shall include, but shall not be limited to, compliance 24647

with state rules governing the education of handicapped children, 24648  
providing services identified in a student's individualized 24649  
education program as defined in section 3323.01 of the Revised 24650  
Code, and the portion of the district's overall administrative and 24651  
overhead costs that are attributable to the district's special 24652  
education student population. 24653

The department shall require joint vocational school 24654  
districts to report data annually to allow for monitoring 24655  
compliance with division (D)(3) of this section. The department 24656  
shall annually report to the governor and the general assembly the 24657  
amount of money spent by each joint vocational school district for 24658  
special education and related services. 24659

(E)~~(2)~~(1) If a joint vocational school district's costs for a 24660  
fiscal year for a student in its categories ~~one~~ two through six 24661  
special education ADM exceed the threshold catastrophic cost for 24662  
serving the student, as specified in division (C)(3)(b) of section 24663  
3317.022 of the Revised Code, the district may submit to the 24664  
superintendent of public instruction documentation, as prescribed 24665  
by the superintendent, of all of its costs for that student. Upon 24666  
submission of documentation for a student of the type and in the 24667  
manner prescribed, the department shall pay to the district an 24668  
amount equal to the sum of the following: 24669

(a) One-half of the district's costs for the student in 24670  
excess of the threshold catastrophic cost; 24671

(b) The product of one-half of the district's costs for the 24672  
student in excess of the threshold catastrophic cost multiplied by 24673  
the district's state share percentage. 24674

(2) The district shall only report under division (E)(1) of 24675  
this section, and the department shall only pay for, the costs of 24676  
educational expenses and the related services provided to the 24677  
student in accordance with the student's individualized education 24678

program. Any legal fees, court costs, or other costs associated 24679  
with any cause of action relating to the student may not be 24680  
included in the amount. 24681

(F) Each fiscal year, the department shall pay each joint 24682  
vocational school district an amount for adult technical and 24683  
vocational education and specialized consultants. 24684

(G)(1) A joint vocational school district's local share of 24685  
special education and related services additional weighted costs 24686  
equals: 24687

(1 - state share percentage) X 24688  
Total special education weight X 24689  
the formula amount 24690

(2) For each handicapped student receiving special education 24691  
and related services under an individualized education program, as 24692  
defined in section 3323.01 of the Revised Code, at a joint 24693  
vocational district, the resident district or, if the student is 24694  
enrolled in a community school, the community school shall be 24695  
responsible for the amount of any costs of providing those special 24696  
education and related services to that student that exceed the sum 24697  
of the amount calculated for those services attributable to that 24698  
student under divisions (B), (D), (E), and (G)(1) of this section. 24699

Those excess costs shall be calculated by subtracting the sum 24700  
of the following from the actual cost to provide special education 24701  
and related services to the student: 24702

(a) The product of the formula amount times the 24703  
cost-of-doing-business factor; 24704

(b) The product of the formula amount times the applicable 24705  
multiple specified in section 3317.013 of the Revised Code; 24706

(c) Any funds paid under division (E) of this section for the 24707  
student; 24708

(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. 24709  
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(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. 24713  
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(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: 24716  
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(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. 24721  
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(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. 24725  
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(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. 24728  
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**Sec. 3318.01.** As used in sections 3318.01 to 3318.20 of the 24738

Revised Code:	24739
(A) "Ohio school facilities commission" means the commission created pursuant to section 3318.30 of the Revised Code.	24740 24741
(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.	24742 24743 24744 24745 24746 24747 24748 24749 24750 24751
(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.	24752 24753 24754 24755
(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 government, performing essential governmental functions of state government pursuant to sections 3318.01 and 3318.20 of the Revised Code.	24756 24757 24758 24759 24760 24761
For purposes of assistance provided under sections 3318.40 to 3318.45 of the Revised Code, the term "school district" as used in this section and in divisions (A), (C), and (D) of section 3318.03 and in sections 3318.031, <del>3318.033</del> , 3318.042, 3318.07, 3318.08, 3318.083, 3318.084, 3318.085, 3318.086, 3318.10, 3318.11, 3318.12, 3318.13, 3318.14, 3318.15, 3318.16, 3318.19, and 3318.20 of the Revised Code means a joint vocational school district established pursuant to section 3311.18 of the Revised Code.	24762 24763 24764 24765 24766 24767 24768 24769

(E) "School district board" means the board of education of a school district. 24770  
24771

(F) "Net bonded indebtedness" means the difference between 24772  
the sum of the par value of all outstanding and unpaid bonds and 24773  
notes which a school district board is obligated to pay, any 24774  
amounts the school district is obligated to pay under 24775  
lease-purchase agreements entered into under section 3313.375 of 24776  
the Revised Code, and the par value of bonds authorized by the 24777  
electors but not yet issued, the proceeds of which can lawfully be 24778  
used for the project, and the amount held in the sinking fund and 24779  
other indebtedness retirement funds for their redemption. Notes 24780  
issued for school buses in accordance with section 3327.08 of the 24781  
Revised Code, notes issued in anticipation of the collection of 24782  
current revenues, and bonds issued to pay final judgments shall 24783  
not be considered in calculating the net bonded indebtedness. 24784

"Net bonded indebtedness" does not include indebtedness 24785  
arising from the acquisition of land to provide a site for 24786  
classroom facilities constructed, acquired, or added to pursuant 24787  
to sections 3318.01 to 3318.20 of the Revised Code. 24788

(G) "Board of elections" means the board of elections of the 24789  
county containing the most populous portion of the school 24790  
district. 24791

(H) "County auditor" means the auditor of the county in which 24792  
the greatest value of taxable property of such school district is 24793  
located. 24794

(I) "Tax duplicates" means the general tax lists and 24795  
duplicates prescribed by sections 319.28 and 319.29 of the Revised 24796  
Code. 24797

(J) "Required level of indebtedness" means: 24798

(1) In the case of districts in the first percentile, five 24799



per cent of the district's valuation for the year preceding the 24800  
year in which the controlling board approved the project under 24801  
section 3318.04 of the Revised Code. 24802

(2) In the case of districts ranked in a subsequent 24803  
percentile, five per cent of the district's valuation for the year 24804  
preceding the year in which the controlling board approved the 24805  
project under section 3318.04 of the Revised Code, plus [two 24806  
one-hundredths of one per cent multiplied by (the percentile in 24807  
which the district ranks for the fiscal year preceding the fiscal 24808  
year in which the controlling board approved the district's 24809  
project minus one)]. 24810

(K) "Required percentage of the basic project costs" means 24811  
one per cent of the basic project costs times the percentile in 24812  
which the district ranks for the fiscal year preceding the fiscal 24813  
year in which the controlling board approved the district's 24814  
project. 24815

(L) "Basic project cost" means a cost amount determined in 24816  
accordance with rules adopted under section 111.15 of the Revised 24817  
Code by the Ohio school facilities commission. The basic project 24818  
cost calculation shall take into consideration the square footage 24819  
and cost per square foot necessary for the grade levels to be 24820  
housed in the classroom facilities, the variation across the state 24821  
in construction and related costs, the cost of the installation of 24822  
site utilities and site preparation, the cost of demolition of all 24823  
or part of any existing classroom facilities that are abandoned 24824  
under the project, the cost of insuring the project until it is 24825  
completed, any contingency reserve amount prescribed by the 24826  
commission under section 3318.086 of the Revised Code, and the 24827  
professional planning, administration, and design fees that a 24828  
district may have to pay to undertake a classroom facilities 24829  
project. 24830

For a joint vocational school district that receives 24831

assistance under sections 3318.40 to 3318.45 of the Revised Code, 24832  
the basic project cost calculation for a project under those 24833  
sections shall also take into account the types of laboratory 24834  
spaces and program square footages needed for the vocational 24835  
education programs for high school students offered by the school 24836  
district. 24837

~~"Basic project cost" also includes the value of classroom 24838  
facilities authorized in a pre-existing bond issue as described in 24839  
section 3318.033 of the Revised Code. 24840~~

(M)(1) Except for a joint vocational school district that 24841  
receives assistance under sections 3318.40 to 3318.45 of the 24842  
Revised Code, a "school district's portion of the basic project 24843  
cost" means the amount determined under section 3318.032 of the 24844  
Revised Code. 24845

(2) For a joint vocational school district that receives 24846  
assistance under sections 3318.40 to 3318.45 of the Revised Code, 24847  
a "school district's portion of the basic project cost" means the 24848  
amount determined under division (C) of section 3318.42 of the 24849  
Revised Code. 24850

(N) "Child day-care facility" means space within a classroom 24851  
facility in which the needs of infants, toddlers, preschool 24852  
children, and school children are provided for by persons other 24853  
than the parent or guardian of such children for any part of the 24854  
day, including persons not employed by the school district 24855  
operating such classroom facility. 24856

(O) "Community resource center" means space within a 24857  
classroom facility in which comprehensive services that support 24858  
the needs of families and children are provided by community-based 24859  
social service providers. 24860

(P) "Valuation" means the total value of all property in the 24861  
district as listed and assessed for taxation on the tax 24862

duplicates. 24863

(Q) "Percentile" means the percentile in which the district 24864  
is ranked pursuant to division (D) of section 3318.011 of the 24865  
Revised Code. 24866

(R) "Installation of site utilities" means the installation 24867  
of a site domestic water system, site fire protection system, site 24868  
gas distribution system, site sanitary system, site storm drainage 24869  
system, and site telephone and data system. 24870

(S) "Site preparation" means the earthwork necessary for 24871  
preparation of the building foundation system, the paved 24872  
pedestrian and vehicular circulation system, playgrounds on the 24873  
project site, and lawn and planting on the project site. 24874

Sec. 3318.024. In the first year of a capital biennium, any 24875  
funds appropriated to the Ohio school facilities commission for 24876  
classroom facilities projects under this chapter in the previous 24877  
capital biennium that were not spent or encumbered, or for which 24878  
an encumbrance has been canceled under section 3318.05 of the 24879  
Revised Code, shall be used by the commission only for projects 24880  
under sections 3318.01 to 3318.20 of the Revised Code, subject to 24881  
appropriation by the general assembly. 24882

In the second year of a capital biennium, any funds 24883  
appropriated to the Ohio school facilities commission for 24884  
classroom facilities projects under this chapter that were not 24885  
spent or encumbered in the first year of the biennium and which 24886  
are in excess of an amount equal to half of the appropriations for 24887  
the capital biennium, or for which an encumbrance has been 24888  
canceled under section 3318.05 of the Revised Code, shall be used 24889  
by the commission only for projects under sections 3318.01 to 24890  
3318.20 of the Revised Code, subject to appropriation by the 24891  
general assembly. 24892

Sec. 3318.03. (A) Before conducting an on-site evaluation of 24893  
a school district under section 3318.02 of the Revised Code, at 24894  
the request of the district board of education, the Ohio school 24895  
facilities commission shall examine any classroom facilities needs 24896  
assessment that has been conducted by the district and any master 24897  
plan developed for meeting the facility needs of the district. 24898

(B) Upon conducting the on-site evaluation under section 24899  
3318.02 of the Revised Code, the Ohio school facilities commission 24900  
shall make a determination of all of the following: 24901

(1) The needs of the school district for additional classroom 24902  
facilities; 24903

(2) The number of classroom facilities to be included in a 24904  
project, ~~including classroom facilities authorized by a bond issue~~ 24905  
~~described in section 3318.033 of the Revised Code,~~ and the basic 24906  
project cost of constructing, acquiring, reconstructing, or making 24907  
additions to each such facility; 24908

(3) The amount of such cost that the school district can 24909  
supply from available funds, by the issuance of bonds previously 24910  
authorized by the electors of the school district the proceeds of 24911  
which can lawfully be used for the project, ~~including bonds~~ 24912  
~~authorized by the district's electors as described in section~~ 24913  
~~3318.033 of the Revised Code,~~ and by the issuance of bonds under 24914  
section 3318.05 of the Revised Code; 24915

(4) The remaining amount of such cost that shall be supplied 24916  
by the state; 24917

(5) The amount of the state's portion to be encumbered in 24918  
accordance with section 3318.11 of the Revised Code in the current 24919  
and subsequent fiscal bienniums from funds appropriated for 24920  
purposes of sections 3318.01 to 3318.20 of the Revised Code. 24921

(C) The commission shall make a determination in favor of 24922

constructing, acquiring, reconstructing, or making additions to a 24923  
classroom facility only upon evidence that the proposed project 24924  
conforms to sound educational practice, that it is in keeping with 24925  
the orderly process of school district reorganization and 24926  
consolidation, and that the actual or projected enrollment in each 24927  
classroom facility proposed to be included in the project is at 24928  
least three hundred fifty pupils. Exceptions shall be authorized 24929  
only in those districts where topography, sparsity of population, 24930  
and other factors make larger schools impracticable. 24931

If the school district board determines that an existing 24932  
facility has historical value or for other good cause determines 24933  
that an existing facility should be renovated in lieu of acquiring 24934  
a comparable facility by new construction, the commission may 24935  
approve the expenditure of project funds for the renovation of 24936  
that facility up to but not exceeding one hundred per cent of the 24937  
estimated cost of acquiring a comparable facility by new 24938  
construction, as long as the commission determines that the 24939  
facility when renovated can be operationally efficient, will be 24940  
adequate for the future needs of the district, and will comply 24941  
with the other provisions of this division. 24942

(D) Sections 125.81 and 153.04 of the Revised Code shall not 24943  
apply to classroom facilities constructed under either sections 24944  
3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised 24945  
Code. 24946

**Sec. 3318.042.** (A) The board of education of any school 24947  
district that is receiving assistance under sections 3318.01 to 24948  
3318.20 of the Revised Code after May 20, 1997, or under sections 24949  
3318.40 to 3318.45 of the Revised Code, and whose project is still 24950  
under construction, may request that the Ohio school facilities 24951  
commission examine whether the circumstances prescribed in either 24952  
division (B)(1) or (2) of this section exist in the school 24953

district. If the commission so finds, the commission shall review 24954  
the school district's original assessment and approved project and 24955  
consider providing additional assistance to the school district to 24956  
correct the prescribed conditions found to exist in the district. 24957  
Additional assistance under this section shall be limited to 24958  
additions to one or more buildings, remodeling of one or more 24959  
buildings, or changes to the infrastructure of one or more 24960  
buildings. 24961

(B) Consideration of additional assistance to a school 24962  
district under this section is warranted in either of the 24963  
following circumstances: 24964

(1) Additional work is needed to correct an oversight or 24965  
deficiency not identified or included in the district's initial 24966  
assessment. 24967

(2) Other conditions exist that, in the opinion of the 24968  
commission, warrant additions or remodeling of the project 24969  
facilities or changes to infrastructure associated with the 24970  
district's project that were not identified in the initial 24971  
assessment and plan. 24972

(C) If the commission decides in favor of providing 24973  
additional assistance to any school district under this section, 24974  
the school district shall be responsible for paying for its 24975  
portion of the cost of the additions, remodeling, or 24976  
infrastructure changes pursuant to section 3318.083 of the Revised 24977  
Code. If, after making a financial evaluation of the school 24978  
district, the commission determines that the school district is 24979  
unable without undue hardship, according to the guidelines adopted 24980  
by the commission, to fund the school district portion of the 24981  
increase, then the state and the school district shall enter into 24982  
an agreement whereby the state shall pay the portion of the cost 24983  
increase attributable to the school district which is determined 24984  
to be in excess of any local resources available to the district 24985

and the district shall thereafter reimburse the state. The 24986  
commission shall establish the district's schedule for reimbursing 24987  
the state, which shall not extend beyond ~~five~~ ten years. The 24988  
commission may lengthen the reimbursement schedule of a school 24989  
district that has entered into an agreement under this section 24990  
prior to the effective date of this amendment as long as the total 24991  
term of that schedule does not extend beyond ten years. Debt 24992  
incurred under this section shall not be included in the 24993  
calculation of the net indebtedness of the school district under 24994  
section 133.06 of the Revised Code. 24995

**Sec. 3318.05.** The conditional approval of the Ohio school 24996  
facilities commission for a project shall lapse and the amount 24997  
reserved and encumbered for such project shall be released unless 24998  
the school district board accepts such conditional approval within 24999  
one hundred twenty days following the date of certification of the 25000  
conditional approval to the school district board and the electors 25001  
of the school district vote favorably on both of the propositions 25002  
described in divisions (A) and (B) of this section within one year 25003  
of the date of such certification, except that a school district 25004  
described in division (C) of this section does not need to submit 25005  
the proposition described in division (B) of this section. The 25006  
propositions described in divisions (A) and (B) of this section 25007  
shall be combined in a single proposal. If the district board or 25008  
the district's electors fail to meet such requirements and the 25009  
amount reserved and encumbered for the district's project is 25010  
released, the district shall be given first priority for project 25011  
funding as such funds become available. 25012

(A) On the question of issuing bonds of the school district 25013  
board, for the school district's portion of the basic project 25014  
cost, in an amount equal to the school district's portion of the 25015  
basic project cost ~~less any deduction made under section 3318.033~~ 25016  
~~of the Revised Code and~~ less the amount of the proceeds of any 25017

securities authorized or to be authorized under division (J) of 25018  
section 133.06 of the Revised Code and dedicated by the school 25019  
district board to payment of the district's portion of the basic 25020  
project cost; and 25021

(B) On the question of levying a tax the proceeds of which 25022  
shall be used to pay the cost of maintaining the classroom 25023  
facilities included in the project. Such tax shall be at the rate 25024  
of not less than one-half mill for each dollar of valuation for a 25025  
period of twenty-three years, subject to any extension approved 25026  
under section 3318.061 of the Revised Code. 25027

(C) If a school district has in place a tax levied under 25028  
section 5705.21 of the Revised Code for general ongoing permanent 25029  
improvements ~~of at least two mills for each dollar of valuation~~ 25030  
and the proceeds of such tax can be used for maintenance, the 25031  
school district need not levy the additional tax required under 25032  
division (B) of this section, provided the school district board 25033  
includes in the agreement entered into under section 3318.08 of 25034  
the Revised Code provisions earmarking an amount from the proceeds 25035  
of that permanent improvement tax for maintenance of classroom 25036  
facilities equivalent to the amount of the additional tax and for 25037  
the equivalent number of years otherwise required under this 25038  
section. 25039

(D) Proceeds of the tax to be used for maintenance of the 25040  
classroom facilities under either division (B) or (C) of this 25041  
section shall be deposited into a separate fund established by the 25042  
school district for such purpose. 25043

Sec. 3318.052. At any time after the electors of a school 25044  
district have approved either or both a property tax levied under 25045  
section 5705.21 or 5705.218 of the Revised Code for the purpose of 25046  
general ongoing permanent improvements or a school district income 25047  
tax levied under Chapter 5748. of the Revised Code, the proceeds 25048



of which, pursuant to the ballot measures approved by the 25049  
electors, are not so restricted that they cannot be used to pay 25050  
the costs of a project or maintaining classroom facilities, the 25051  
school district board may: 25052

(A) Within one year following the date of the certification 25053  
of the conditional approval of the school district's classroom 25054  
facilities project by the Ohio school facilities commission, enter 25055  
into a written agreement with the commission, which may be part of 25056  
an agreement entered into under section 3318.08 of the Revised 25057  
Code, and in which the school district board covenants and agrees 25058  
to do one or both of the following: 25059

(1) Apply a specified amount of available proceeds of that 25060  
property tax levy, of that school district income tax, or of 25061  
securities issued under this section, or of proceeds from any two 25062  
or more of those sources, to pay all or part of the district's 25063  
portion of the basic project cost of its classroom facilities 25064  
project; 25065

(2) Apply available proceeds of either or both a property tax 25066  
levied under section 5705.21 or 5705.218 of the Revised Code in 25067  
effect for a continuing period of time, or of a school district 25068  
income tax levied under Chapter 5748. of the Revised Code in 25069  
effect for a continuing period of time to the payment of costs of 25070  
maintaining the classroom facilities. 25071

(B) Receive, as a credit against the amount of bonds required 25072  
under sections 3318.05 and 3318.06 of the Revised Code, to be 25073  
approved by the electors of the district and issued by the 25074  
district board for the district's portion of the basic project 25075  
cost of its classroom facilities project in order for the district 25076  
to receive state assistance for the project, an amount equal to 25077  
the specified amount that the district board covenants and agrees 25078  
with the commission to apply as set forth in division (A)(1) of 25079  
this section; 25080

(C) Receive, as a credit against the amount of the tax levy required under sections 3318.05 and 3318.06 of the Revised Code, to be approved by the electors of the district to pay the costs of maintaining the classroom facilities in order to receive state assistance for the classroom facilities project, an amount equivalent to the specified amount of proceeds the school district board covenants and agrees with the commission to apply as referred to in division (A)(2) of this section; 25081  
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(D) Apply proceeds of either or both a school district income tax levied under Chapter 5748. of the Revised Code that may lawfully be used to pay the costs of a classroom facilities project or of a tax levied under section 5705.21 or 5705.218 of the Revised Code to the payment of debt charges on and financing costs related to securities issued under this section; 25089  
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(E) Issue securities to provide moneys to pay all or part of the district's portion of the basic project cost of its classroom facilities project in accordance with an agreement entered into under division (A) of this section. Securities issued under this section shall be Chapter 133. securities and may be issued as general obligation securities or issued in anticipation of a school district income tax or as property tax anticipation notes under section 133.24 of the Revised Code. The district board's resolution authorizing the issuance and sale of general obligation securities under this section shall conform to the applicable requirements of section 133.22 or 133.23 of the Revised Code. Securities issued under this section shall have principal payments during each year after the year of issuance over a period of not more than twenty-three years and, if so determined by the district board, during the year of issuance. Securities issued under this section shall not be included in the calculation of net indebtedness of the district under section 133.06 of the Revised Code, if the resolution of the district board authorizing their 25095  
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issuance and sale includes covenants to appropriate annually from 25113  
lawfully available proceeds of a property tax levied under section 25114  
5705.21 or 5705.218 of the Revised Code and no school district 25115  
income tax levied under Chapter 5748. of the Revised Code and to 25116  
continue to levy and collect the tax in amounts necessary to pay 25117  
the debt charges on and financing costs related to the securities 25118  
as they become due. No property tax levied under section 5705.21 25119  
or 5705.218 of the Revised Code or of a school district income tax 25120  
levied under Chapter 5748. of the Revised Code that is pledged, or 25121  
that the school district board has covenanted to levy, collect, 25122  
and appropriate annually, to pay the debt charges on and financing 25123  
costs related to securities issued under this section shall be 25124  
repealed while those securities are outstanding. If such a tax is 25125  
reduced by the electors of the district or by the district board 25126  
while those securities are outstanding, the school district board 25127  
shall continue to levy and collect the tax under the authority of 25128  
the original election authorizing the tax at a rate in each year 25129  
that the board reasonably estimates will produce an amount in that 25130  
year equal to the debt charges on the securities in that year. 25131

No state moneys shall be released for a project to which this 25132  
section applies until the proceeds of the tax securities issued 25133  
under this section that are dedicated for the payment of the 25134  
district portion of the basic project cost of its classroom 25135  
facilities project are first deposited into the district's project 25136  
construction fund. 25137

**Sec. 3318.06.** (A) After receipt of the conditional approval 25138  
of the Ohio school facilities commission, the school district 25139  
board by a majority of all of its members shall, if it desires to 25140  
proceed with the project, declare all of the following by 25141  
resolution: 25142

(1) That by issuing bonds in an amount equal to the school 25143

district's portion of the basic project cost, ~~including bonds~~ 25144  
~~previously authorized by the district's electors as described in~~ 25145  
~~section 3318.033 of the Revised Code,~~ the district is unable to 25146  
provide adequate classroom facilities without assistance from the 25147  
state; 25148

(2) Unless the school district board has resolved to apply 25149  
the proceeds of a property tax or the proceeds of an income tax, 25150  
or a combination of proceeds from such taxes, as authorized under 25151  
section 3318.052 of the Revised Code, that to qualify for such 25152  
state assistance it is necessary to do either of the following: 25153

(a) Levy a tax outside the ten-mill limitation the proceeds 25154  
of which shall be used to pay the cost of maintaining the 25155  
classroom facilities included in the project; 25156

(b) Earmark for maintenance of classroom facilities from the 25157  
proceeds of an existing permanent improvement tax levied under 25158  
section 5705.21 of the Revised Code, if such tax ~~is of at least~~ 25159  
~~two mills for each dollar of valuation and~~ can be used for 25160  
maintenance, an amount equivalent to the amount of the additional 25161  
tax otherwise required under this section and sections 3318.05 and 25162  
3318.08 of the Revised Code. 25163

(3) That the question of any tax levy specified in a 25164  
resolution described in division (A)(2)(a) of this section, if 25165  
required, shall be submitted to the electors of the school 25166  
district at the next general or primary election, if there be a 25167  
general or primary election not less than seventy-five and not 25168  
more than ninety-five days after the day of the adoption of such 25169  
resolution or, if not, at a special election to be held at a time 25170  
specified in the resolution which shall be not less than 25171  
seventy-five days after the day of the adoption of the resolution 25172  
and which shall be in accordance with the requirements of section 25173  
3501.01 of the Revised Code. 25174

Such resolution shall also state that the question of issuing 25175  
bonds of the board shall be combined in a single proposal with the 25176  
question of such tax levy. More than one election under this 25177  
section may be held in any one calendar year. Such resolution 25178  
shall specify both of the following: 25179

(a) That the rate which it is necessary to levy shall be at 25180  
the rate of not less than one-half mill for each one dollar of 25181  
valuation, and that such tax shall be levied for a period of 25182  
twenty-three years; 25183

(b) That the proceeds of the tax shall be used to pay the 25184  
cost of maintaining the classroom facilities included in the 25185  
project. 25186

(B) A copy of a resolution adopted under division (A) of this 25187  
section shall after its passage and not less than seventy-five 25188  
days prior to the date set therein for the election be certified 25189  
to the county board of elections. 25190

The resolution of the school district board, in addition to 25191  
meeting other applicable requirements of section 133.18 of the 25192  
Revised Code, shall state that the amount of bonds to be issued 25193  
will be an amount equal to the school district's portion of the 25194  
basic project cost, and state the maximum maturity of the bonds 25195  
which may be any number of years not exceeding the term calculated 25196  
under section 133.20 of the Revised Code as determined by the 25197  
board. In estimating the amount of bonds to be issued, the board 25198  
shall take into consideration the amount of moneys then in the 25199  
bond retirement fund and the amount of moneys to be collected for 25200  
and disbursed from the bond retirement fund during the remainder 25201  
of the year in which the resolution of necessity is adopted. 25202

If the bonds are to be issued in more than one series, the 25203  
resolution may state, in addition to the information required to 25204  
be stated under division (B)(3) of section 133.18 of the Revised 25205

Code, the number of series, which shall not exceed five, the 25206  
principal amount of each series, and the approximate date each 25207  
series will be issued, and may provide that no series, or any 25208  
portion thereof, may be issued before such date. Upon such a 25209  
resolution being certified to the county auditor as required by 25210  
division (C) of section 133.18 of the Revised Code, the county 25211  
auditor, in calculating, advising, and confirming the estimated 25212  
average annual property tax levy under that division, shall also 25213  
calculate, advise, and confirm by certification the estimated 25214  
average property tax levy for each series of bonds to be issued. 25215

Notice of the election shall include the fact that the tax 25216  
levy shall be at the rate of not less than one-half mill for each 25217  
one dollar of valuation for a period of twenty-three years, and 25218  
that the proceeds of the tax shall be used to pay the cost of 25219  
maintaining the classroom facilities included in the project. 25220

If the bonds are to be issued in more than one series, the 25221  
board of education, when filing copies of the resolution with the 25222  
board of elections as required by division (D) of section 133.18 25223  
of the Revised Code, may direct the board of elections to include 25224  
in the notice of election the principal amount and approximate 25225  
date of each series, the maximum number of years over which the 25226  
principal of each series may be paid, the estimated additional 25227  
average property tax levy for each series, and the first calendar 25228  
year in which the tax is expected to be due for each series, in 25229  
addition to the information required to be stated in the notice 25230  
under division (E)(3)(a) to (e) of section 133.18 of the Revised 25231  
Code. 25232

(C)(1) Except as otherwise provided in division (C)(2) of 25233  
this section, the form of the ballot to be used at such election 25234  
shall be: 25235

"A majority affirmative vote is necessary for passage. 25236

Shall bonds be issued by the ..... (here insert name of school district) school district to pay the local share of school construction under the State of Ohio Classroom Facilities Assistance Program in the principal amount of ..... (here insert principal amount of the bond issue), to be repaid annually over a maximum period of ..... (here insert the maximum number of years over which the principal of the bonds may be paid) years, and an annual levy of property taxes be made outside the ten-mill limitation, estimated by the county auditor to average over the repayment period of the bond issue ..... (here insert the number of mills estimated) mills for each one dollar of tax valuation, which amounts to ..... (rate expressed in cents or dollars and cents, such as "thirty-six cents" or "\$0.36") for each one hundred dollars of tax valuation to pay the annual debt charges on the bonds and to pay debt charges on any notes issued in anticipation of the bonds?"

and, unless the additional levy of taxes is not required pursuant to division (C) of section 3318.05 of the Revised Code,

"Shall an additional levy of taxes be made for a period of twenty-three years to benefit the ..... (here insert name of school district) school district, the proceeds of which shall be used to pay the cost of maintaining the classroom facilities included in the project at the rate of ..... (here insert the number of mills, which shall not be less than one-half mill) mills for each one dollar of valuation?"

	FOR THE BOND ISSUE AND TAX LEVY
	AGAINST THE BOND ISSUE AND TAX LEVY

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(2) If authority is sought to issue bonds in more than one series and the board of education so elects, the form of the ballot shall be as prescribed in section 3318.062 of the Revised Code. If the board of education elects the form of the ballot prescribed in that section, it shall so state in the resolution adopted under this section.

(D) If it is necessary for the school district to acquire a site for the classroom facilities to be acquired pursuant to sections 3318.01 to 3318.20 of the Revised Code, the district board may propose either to issue bonds of the board or to levy a tax to pay for the acquisition of such site, and may combine the question of doing so with the questions specified in division (B) of this section. Bonds issued under this division for the purpose of acquiring a site are a general obligation of the school district and are Chapter 133. securities.

The form of that portion of the ballot to include the question of either issuing bonds or levying a tax for site acquisition purposes shall be one of the following:

(1) "Shall bonds be issued by the ..... (here insert name of the school district) school district to pay costs of acquiring a site for classroom facilities under the State of Ohio Classroom Facilities Assistance Program in the principal amount of ..... (here insert principal amount of the bond issue), to be repaid annually over a maximum period of ..... (here insert maximum number of years over which the principal of the bonds may be paid) years, and an annual levy of property taxes be made outside the ten-mill limitation, estimated by the county auditor to average over the repayment period of the bond issue ..... (here insert number of mills) mills for each one dollar of tax valuation, which amount to ..... (here insert rate expressed in cents or dollars and cents, such as "thirty-six cents" or "\$0.36") for each one hundred dollars of valuation to pay the



annual debt charges on the bonds and to pay debt charges on any 25300  
notes issued in anticipation of the bonds?" 25301

(2) "Shall an additional levy of taxes outside the ten-mill 25302  
limitation be made for the benefit of the ..... (here insert 25303  
name of the school district) ..... school district for the 25304  
purpose of acquiring a site for classroom facilities in the sum of 25305  
..... (here insert annual amount the levy is to produce) 25306  
estimated by the county auditor to average ..... (here insert 25307  
number of mills) mills for each one hundred dollars of valuation, 25308  
for a period of ..... (here insert number of years the millage 25309  
is to be imposed) years?" 25310

Where it is necessary to combine the question of issuing 25311  
bonds of the school district and levying a tax as described in 25312  
division (B) of this section with the question of issuing bonds of 25313  
the school district for acquisition of a site, the question 25314  
specified in that division to be voted on shall be "For the Bond 25315  
Issues and the Tax Levy" and "Against the Bond Issues and the Tax 25316  
Levy." 25317

Where it is necessary to combine the question of issuing 25318  
bonds of the school district and levying a tax as described in 25319  
division (B) of this section with the question of levying a tax 25320  
for the acquisition of a site, the question specified in that 25321  
division to be voted on shall be "For the Bond Issue and the Tax 25322  
Levies" and "Against the Bond Issue and the Tax Levies." 25323

Where the school district board chooses to combine the 25324  
question in division (B) of this section with any of the 25325  
additional questions described in divisions (A) to (D) of section 25326  
3318.056 of the Revised Code, the question specified in division 25327  
(B) of this section to be voted on shall be "For the Bond Issues 25328  
and the Tax Levies" and "Against the Bond Issues and the Tax 25329  
Levies." 25330

If a majority of those voting upon a proposition hereunder 25331  
which includes the question of issuing bonds vote in favor 25332  
thereof, and if the agreement provided for by section 3318.08 of 25333  
the Revised Code has been entered into, the school district board 25334  
may proceed under Chapter 133. of the Revised Code, with the 25335  
issuance of bonds or bond anticipation notes in accordance with 25336  
the terms of the agreement. 25337

**Sec. 3318.08.** Except in the case of a joint vocational school 25338  
district that receives assistance under sections 3318.40 to 25339  
3318.45 of the Revised Code, if the requisite favorable vote on 25340  
the election is obtained, or if the school district board has 25341  
resolved to apply the proceeds of a property tax levy or the 25342  
proceeds of an income tax, or a combination of proceeds from such 25343  
taxes, as authorized in section 3318.052 of the Revised Code, the 25344  
Ohio school facilities commission, upon certification to it of 25345  
either the results of the election or the resolution under section 25346  
3318.052 of the Revised Code, shall enter into a written agreement 25347  
with the school district board for the construction and sale of 25348  
the project. In the case of a joint vocational school district 25349  
that receives assistance under sections 3318.40 to 3318.45 of the 25350  
Revised Code, if the school district board of education and the 25351  
school district electors have satisfied the conditions prescribed 25352  
in division (D)(1) of section 3318.41 of the Revised Code, the 25353  
commission shall enter into an agreement with the school district 25354  
board for the construction and sale of the project. In either 25355  
case, the agreement shall include, but need not be limited to, the 25356  
following provisions: 25357

(A) The sale and issuance of bonds or notes in anticipation 25358  
thereof, as soon as practicable after the execution of the 25359  
agreement, in an amount equal to the school district's portion of 25360  
the basic project cost, including ~~any bonds previously authorized~~ 25361

~~by the district's electors as described in section 3318.033 of the~~ 25362  
~~Revised Code and~~ any securities authorized under division (J) of 25363  
section 133.06 of the Revised Code and dedicated by the school 25364  
district board to payment of the district's portion of the basic 25365  
project cost of the project; provided, that if at that time the 25366  
county treasurer of each county in which the school district is 25367  
located has not commenced the collection of taxes on the general 25368  
duplicate of real and public utility property for the year in 25369  
which the controlling board approved the project, the school 25370  
district board shall authorize the issuance of a first installment 25371  
of bond anticipation notes in an amount specified by the 25372  
agreement, which amount shall not exceed an amount necessary to 25373  
raise the net bonded indebtedness of the school district as of the 25374  
date of the controlling board's approval to within five thousand 25375  
dollars of the required level of indebtedness for the preceding 25376  
year. In the event that a first installment of bond anticipation 25377  
notes is issued, the school district board shall, as soon as 25378  
practicable after the county treasurer of each county in which the 25379  
school district is located has commenced the collection of taxes 25380  
on the general duplicate of real and public utility property for 25381  
the year in which the controlling board approved the project, 25382  
authorize the issuance of a second and final installment of bond 25383  
anticipation notes or a first and final issue of bonds. 25384

The combined value of the first and second installment of 25385  
bond anticipation notes or the value of the first and final issue 25386  
of bonds shall be equal to the school district's portion of the 25387  
basic project cost. The proceeds of any such bonds shall be used 25388  
first to retire any bond anticipation notes. Otherwise, the 25389  
proceeds of such bonds and of any bond anticipation notes, except 25390  
the premium and accrued interest thereon, shall be deposited in 25391  
the school district's project construction fund. In determining 25392  
the amount of net bonded indebtedness for the purpose of fixing 25393  
the amount of an issue of either bonds or bond anticipation notes, 25394

gross indebtedness shall be reduced by moneys in the bond 25395  
retirement fund only to the extent of the moneys therein on the 25396  
first day of the year preceding the year in which the controlling 25397  
board approved the project. Should there be a decrease in the tax 25398  
valuation of the school district so that the amount of 25399  
indebtedness that can be incurred on the tax duplicates for the 25400  
year in which the controlling board approved the project is less 25401  
than the amount of the first installment of bond anticipation 25402  
notes, there shall be paid from the school district's project 25403  
construction fund to the school district's bond retirement fund to 25404  
be applied against such notes an amount sufficient to cause the 25405  
net bonded indebtedness of the school district, as of the first 25406  
day of the year following the year in which the controlling board 25407  
approved the project, to be within five thousand dollars of the 25408  
required level of indebtedness for the year in which the 25409  
controlling board approved the project. The maximum amount of 25410  
indebtedness to be incurred by any school district board as its 25411  
share of the cost of the project is either an amount that will 25412  
cause its net bonded indebtedness, as of the first day of the year 25413  
following the year in which the controlling board approved the 25414  
project, to be within five thousand dollars of the required level 25415  
of indebtedness, or an amount equal to the required percentage of 25416  
the basic project costs, whichever is greater. All bonds and bond 25417  
anticipation notes shall be issued in accordance with Chapter 133. 25418  
of the Revised Code, and notes may be renewed as provided in 25419  
section 133.22 of the Revised Code. 25420

(B) The transfer of such funds of the school district board 25421  
available for the project, together with the proceeds of the sale 25422  
of the bonds or notes, except premium, accrued interest, and 25423  
interest included in the amount of the issue, to the school 25424  
district's project construction fund; 25425

(C) For all school districts except joint vocational school 25426

districts that receive assistance under sections 3318.40 to 25427  
3318.45 of the Revised Code, the following provisions as 25428  
applicable: 25429

(1) If section 3318.052 of the Revised Code applies, the 25430  
earmarking of the proceeds of a tax levied under section 5705.21 25431  
of the Revised Code for general ongoing permanent or under section 25432  
5705.218 of the Revised Code for the purpose of permanent 25433  
improvements, or the proceeds of a school district income tax 25434  
levied under Chapter 5748. of the Revised Code, or the proceeds 25435  
from a combination of those two taxes, in an amount to pay all or 25436  
part of the service charges on bonds issued to pay the school 25437  
district portion of the project and an amount equivalent to all or 25438  
part of the tax required under division (B) of section 3318.05 of 25439  
the Revised Code; 25440

(2) If section 3318.052 of the Revised Code does not apply, 25441  
either of the following: 25442

(a) The levy of the tax authorized at the election for the 25443  
payment of maintenance costs, as specified in division (B) of 25444  
section 3318.05 of the Revised Code; 25445

(b) If the school district electors have approved a 25446  
continuing tax ~~of at least two mills for each dollar of valuation~~ 25447  
for general ongoing permanent improvements under section 5705.21 25448  
of the Revised Code and that tax can be used for maintenance, the 25449  
earmarking of an amount of the proceeds from such tax for 25450  
maintenance of classroom facilities as specified in division (B) 25451  
of section 3318.05 of the Revised Code. 25452

(D) For joint vocational school districts that receive 25453  
assistance under sections 3318.40 to 3318.45 of the Revised Code, 25454  
provision for deposit of school district moneys dedicated to 25455  
maintenance of the classroom facilities acquired under those 25456  
sections as prescribed in section 3318.43 of the Revised Code; 25457

(E) Dedication of any local donated contribution as provided	25458
for under section 3318.084 of the Revised Code, including a	25459
schedule for depositing such moneys applied as an offset of the	25460
district's obligation to levy the tax described in division (B) of	25461
section 3318.05 of the Revised Code as required under division	25462
(D)(2) of section 3318.084 of the Revised Code;	25463
(F) Ownership of or interest in the project during the period	25464
of construction, which shall be divided between the commission and	25465
the school district board in proportion to their respective	25466
contributions to the school district's project construction fund;	25467
(G) Maintenance of the state's interest in the project until	25468
any obligations issued for the project under section 3318.26 of	25469
the Revised Code are no longer outstanding;	25470
(H) The insurance of the project by the school district from	25471
the time there is an insurable interest therein and so long as the	25472
state retains any ownership or interest in the project pursuant to	25473
division (F) of this section, in such amounts and against such	25474
risks as the commission shall require; provided, that the cost of	25475
any required insurance until the project is completed shall be a	25476
part of the basic project cost;	25477
(I) The certification by the director of budget and	25478
management that funds are available and have been set aside to	25479
meet the state's share of the basic project cost as approved by	25480
the controlling board pursuant to either section 3318.04 or	25481
division (B)(1) of section 3318.41 of the Revised Code;	25482
(J) Authorization of the school district board to advertise	25483
for and receive construction bids for the project, for and on	25484
behalf of the commission, and to award contracts in the name of	25485
the state subject to approval by the commission;	25486
(K) Provisions for the disbursement of moneys from the school	25487
district's project account upon issuance by the commission or the	25488

commission's designated representative of vouchers for work done	25489
to be certified to the commission by the treasurer of the school	25490
district board;	25491
(L) Disposal of any balance left in the school district's	25492
project construction fund upon completion of the project;	25493
(M) Limitations upon use of the project or any part of it so	25494
long as any obligations issued to finance the project under	25495
section 3318.26 of the Revised Code are outstanding;	25496
(N) Provision for vesting the state's interest in the project	25497
to the school district board when the obligations issued to	25498
finance the project under section 3318.26 of the Revised Code are	25499
outstanding;	25500
(O) Provision for deposit of an executed copy of the	25501
agreement in the office of the commission;	25502
(P) Provision for termination of the contract and release of	25503
the funds encumbered at the time of the conditional approval, if	25504
the proceeds of the sale of the bonds of the school district board	25505
are not paid into the school district's project construction fund	25506
and if bids for the construction of the project have not been	25507
taken within such period after the execution of the agreement as	25508
may be fixed by the commission;	25509
(Q) Provision for the school district to maintain the project	25510
in accordance with a plan approved by the commission;	25511
(R)(1) For all school districts except a district undertaking	25512
a project under section 3318.38 of the Revised Code or a joint	25513
vocational school district undertaking a project under sections	25514
3318.40 to 3318.45 of the Revised Code, provision that all state	25515
funds reserved and encumbered to pay the state share of the cost	25516
of the project pursuant to section 3318.03 of the Revised Code be	25517
spent on the construction or acquisition of the project prior to	25518
the expenditure of any funds provided by the school district to	25519

pay for its share of the project cost, unless the school district 25520  
certifies to the commission that expenditure by the school 25521  
district is necessary to maintain the tax-exempt status of notes 25522  
or bonds issued by the school district to pay for its share of the 25523  
project cost or to comply with applicable temporary investment 25524  
periods or spending exceptions to rebate as provided for under 25525  
federal law in regard to those notes or bonds, in which cases, the 25526  
school district may commit to spend, or spend, a portion of the 25527  
funds it provides; 25528

(2) For a school district undertaking a project under section 25529  
3318.38 of the Revised Code or a joint vocational school district 25530  
undertaking a project under sections 3318.40 to 3318.45 of the 25531  
Revised Code, provision that the state funds reserved and 25532  
encumbered and the funds provided by the school district to pay 25533  
the basic project cost of any segment of the project, or of the 25534  
entire project if it is not divided into segments, be spent on the 25535  
construction and acquisition of the project simultaneously in 25536  
proportion to the state's and the school district's respective 25537  
shares of that basic project cost as determined under section 25538  
3318.032 of the Revised Code or, if the district is a joint 25539  
vocational school district, under section 3318.42 of the Revised 25540  
Code. 25541

(S) A provision stipulating that the commission may prohibit 25542  
the district from proceeding with any project if the commission 25543  
determines that the site is not suitable for construction 25544  
purposes. The commission may perform soil tests in its 25545  
determination of whether a site is appropriate for construction 25546  
purposes. 25547

(T) A provision stipulating that, unless otherwise authorized 25548  
by the commission, any contingency reserve portion of the 25549  
construction budget prescribed by the commission shall be used 25550  
only to pay costs resulting from unforeseen job conditions, to 25551



comply with rulings regarding building and other codes, to pay 25552  
costs related to design clarifications or corrections to contract 25553  
documents, and to pay the costs of settlements or judgments 25554  
related to the project as provided under section 3318.086 of the 25555  
Revised Code; 25556

(U) Provision stipulating that for continued release of 25557  
project funds the school district board shall comply with section 25558  
3313.41 of the Revised Code throughout the project; 25559

(V) Provision that the commission shall not approve a 25560  
contract for demolition of a facility until the school district 25561  
board has complied with section 3313.41 of the Revised Code 25562  
relative to that facility, unless demolition of that facility is 25563  
to clear a site for construction of a replacement facility 25564  
included in the district's project. 25565

**Sec. 3318.30.** (A) There is hereby created the Ohio school 25566  
facilities commission. The commission shall administer the 25567  
provision of financial assistance to school districts for the 25568  
acquisition or construction of classroom facilities in accordance 25569  
with sections 3318.01 to 3318.33 of the Revised Code. 25570

The commission is a body corporate and politic, an agency of 25571  
state government and an instrumentality of the state, performing 25572  
essential governmental functions of this state. The carrying out 25573  
of the purposes and the exercise by the commission of its powers 25574  
conferred by sections 3318.01 to 3318.33 of the Revised Code are 25575  
essential public functions and public purposes of the state. The 25576  
commission may, in its own name, sue and be sued, enter into 25577  
contracts, and perform all the powers and duties given to it by 25578  
sections 3318.01 to 3318.33 of the Revised Code, but it does not 25579  
have and shall not exercise the power of eminent domain. In its 25580  
discretion and as it determines appropriate, the commission may 25581  
delegate to any of its members, executive director, or other 25582

employees any of the commission's powers and duties to carry out 25583  
its functions. 25584

(B) The commission shall consist of seven members, three of 25585  
whom are voting members. The voting members of the commission 25586  
shall be the director of the office of budget and management, the 25587  
director of administrative services, and the superintendent of 25588  
public instruction, or their designees. Of the nonvoting members, 25589  
two shall be members of the senate appointed by the president of 25590  
the senate, and two shall be members of the house of 25591  
representatives appointed by the speaker of the house. Each of the 25592  
appointees of the president, and each of the appointees of the 25593  
speaker, shall be members of different political parties. 25594

Nonvoting members shall serve as members of the commission 25595  
during the legislative biennium for which they are appointed, 25596  
except that any such member who ceases to be a member of the 25597  
legislative house from which the member was appointed shall cease 25598  
to be a member of the commission. Each nonvoting member shall be 25599  
appointed within thirty-one days of the end of the term of that 25600  
member's predecessor. Such members may be reappointed. Vacancies 25601  
of nonvoting members shall be filled in the manner provided for 25602  
original appointments. 25603

Members of the commission shall serve without compensation. 25604

After the initial nonvoting members of the commission have 25605  
been appointed, the commission shall meet and organize by electing 25606  
voting members as the chairperson and vice-chairperson of the 25607  
commission, who shall hold their offices until the next 25608  
organizational meeting of the commission. Organizational meetings 25609  
of the commission shall be held at the first meeting of each 25610  
calendar year. At each organizational meeting, the commission 25611  
shall elect from among its voting members a chairperson and 25612  
vice-chairperson, who shall serve until the next annual 25613  
organizational meeting. The commission shall adopt rules pursuant 25614

to section 111.15 of the Revised Code for the conduct of its 25615  
internal business and shall keep a journal of its proceedings. 25616  
Including the organizational meeting, the commission shall meet at 25617  
least once each calendar quarter. 25618

Two voting members of the commission constitute a quorum, and 25619  
the affirmative vote of two members is necessary for approval of 25620  
any action taken by the commission. A vacancy in the membership of 25621  
the commission does not impair a quorum from exercising all the 25622  
rights and performing all the duties of the commission. Meetings 25623  
of the commission may be held anywhere in the state and shall be 25624  
held in compliance with section 121.22 of the Revised Code. 25625

(C) The commission shall file an annual report of its 25626  
activities and finances with the governor, speaker of the house of 25627  
representatives, president of the senate, and chairpersons of the 25628  
house and senate finance committees. 25629

(D) The commission shall be exempt from the requirements of 25630  
sections 101.82 to 101.87 of the Revised Code. 25631

**Sec. 3318.31.** (A) The Ohio school facilities commission may 25632  
perform any act and ensure the performance of any function 25633  
necessary or appropriate to carry out the purposes of, and 25634  
exercise the powers granted under, Chapter 3318. of the Revised 25635  
Code, including any of the following: 25636

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 25637  
the Revised Code, rules for the administration of programs 25638  
authorized under Chapter 3318. of the Revised Code. 25639

(2) Contract with, retain the services of, or designate, and 25640  
fix the compensation of, such agents, accountants, consultants, 25641  
advisers, and other independent contractors as may be necessary or 25642  
desirable to carry out the programs authorized under Chapter 3318. 25643  
of the Revised Code, or authorize the executive director to 25644

perform such powers and duties. 25645

(3) Receive and accept any gifts, grants, donations, and 25646  
pledges, and receipts therefrom, to be used for the programs 25647  
authorized under Chapter 3318. of the Revised Code. 25648

(4) Make and enter into all contracts, commitments, and 25649  
agreements, and execute all instruments, necessary or incidental 25650  
to the performance of its duties and the execution of its rights 25651  
and powers under Chapter 3318. of the Revised Code, or authorize 25652  
the executive director to perform such powers and duties. 25653

(B) The commission shall appoint and fix the compensation of 25654  
an executive director who shall serve at the pleasure of the 25655  
commission. The executive director shall supervise the operations 25656  
of the commission and perform such other duties as delegated by 25657  
the commission. The executive director also shall employ and fix 25658  
the compensation of such employees as will facilitate the 25659  
activities and purposes of the commission, who shall serve at the 25660  
pleasure of the executive director. The employees of the 25661  
commission shall be exempt from Chapter 4117. of the Revised Code 25662  
and shall not be public employees as defined in section 4117.01 of 25663  
the Revised Code. 25664

(C) The attorney general shall serve as the legal 25665  
representative for the commission and may appoint other counsel as 25666  
necessary for that purpose in accordance with section 109.07 of 25667  
the Revised Code. 25668

**Sec. 3318.37.** (A)(1) As used in this section: 25669

~~(1)~~(a) "Large land area school district" means a school 25670  
district with a territory of greater than three hundred fifty 25671  
square miles in any percentile as determined under section 25672  
3318.011 of the Revised Code. 25673

(b) "Low wealth school district" means a school district in 25674

the first through fiftieth percentiles as determined under section 25675  
3318.011 of the Revised Code. 25676

~~(2)(c)~~ A "school district with an exceptional need for 25677  
immediate classroom facilities assistance" means a low wealth or 25678  
large land area school district with an exceptional need for new 25679  
facilities in order to protect the health and safety of all or a 25680  
portion of its students. ~~School~~ 25681

(2) School districts reasonably expected to be eligible for 25682  
state assistance under sections 3318.01 to 3318.20 of the Revised 25683  
Code within three fiscal years after the year of the application 25684  
for assistance under this section ~~is being considered by the Ohio~~ 25685  
~~school facilities commission,~~ and school districts that 25686  
participate in the school building assistance expedited local 25687  
partnership program under section 3318.36 of the Revised Code, 25688  
except for such districts described in division (A)(3) of this 25689  
section, shall not be eligible for assistance under this section. 25690

(3) School districts that participate in the school building 25691  
assistance expedited local partnership program under section 25692  
3318.36 of the Revised Code may receive assistance under the 25693  
program established under this section only if the following 25694  
conditions are satisfied: 25695

(a) The district board adopted a resolution certifying its 25696  
intent to participate in the school building assistance expedited 25697  
local partnership program under section 3318.36 of the Revised 25698  
Code prior to September 14, 2000. 25699

(b) The district was selected by the Ohio school facilities 25700  
commission for participation in the school building assistance 25701  
expedited local partnership program under section 3318.36 of the 25702  
Revised Code in the manner prescribed by the commission under that 25703  
section as it existed prior to September 14, 2000. 25704

(B)(1) There is hereby established the exceptional needs 25705

school facilities assistance program. Under the program, the Ohio 25706  
school facilities commission may set aside from the moneys 25707  
annually appropriated to it for classroom facilities assistance 25708  
projects up to twenty-five per cent for assistance to school 25709  
districts with exceptional needs for immediate classroom 25710  
facilities assistance. 25711

(2)(a) After consulting with education and construction 25712  
experts, the commission shall adopt guidelines for identifying 25713  
school districts with an exceptional need for immediate classroom 25714  
facilities assistance. 25715

(b) The guidelines shall include application forms and 25716  
instructions for school districts ~~that believe they have an~~ 25717  
~~exceptional need for immediate classroom facilities to use in~~ 25718  
applying for assistance under this section. 25719

(3) The commission shall evaluate the classroom facilities, 25720  
and the need for replacement classroom facilities from the 25721  
applications received under this section. The commission, 25722  
utilizing the guidelines adopted under division (B)(2)(a) of this 25723  
section, shall prioritize the school districts to be assessed. 25724

Notwithstanding section 3318.02 of the Revised Code, the 25725  
commission may conduct on-site evaluation of the school districts 25726  
prioritized under this section and approve and award funds until 25727  
such time as all funds set aside under division (B)(1) of this 25728  
section have been encumbered ~~under section 3318.04 of the Revised~~ 25729  
~~Code. However, the commission need not conduct the evaluation of~~ 25730  
facilities if the commission determines that a district's 25731  
assessment conducted under section 3318.36 of the Revised Code is 25732  
sufficient for purposes of this section. 25733

(4) Notwithstanding division (A) of section 3318.05 of the 25734  
Revised Code, the school district's portion of the basic project 25735  
cost under this section shall be the "required percentage of the 25736

basic project costs," as defined in division (K) of section 25737  
3318.01 of the Revised Code. 25738

(5) Except as otherwise specified in this section, any 25739  
project undertaken with assistance under this section shall comply 25740  
with all provisions of sections 3318.01 to 3318.20 of the Revised 25741  
Code. A school district may receive assistance under sections 25742  
3318.01 to 3318.20 of the Revised Code for the remainder of the 25743  
district's classroom facilities needs as assessed under this 25744  
section when the district is eligible for such assistance pursuant 25745  
to section 3318.02 of the Revised Code, but any classroom facility 25746  
constructed with assistance under this section shall not be 25747  
included in a district's project at that time unless the 25748  
commission determines the district has experienced the increased 25749  
enrollment specified in division (B)(1) of section 3318.04 of the 25750  
Revised Code. 25751

(C) No school district shall receive assistance under this 25752  
section for a classroom facility that has been included in the 25753  
discrete part of the district's classroom facilities needs 25754  
identified and addressed in the district's project pursuant to an 25755  
agreement entered into under section 3318.36 of the Revised Code. 25756

**Sec. 3318.41.** (A)(1) The Ohio school facilities commission 25757  
annually shall assess the classroom facilities needs of the number 25758  
of joint vocational school districts that the commission 25759  
reasonably expects to be able to provide assistance to in a fiscal 25760  
year, based on the amount set aside for that fiscal year under 25761  
division (B) of section 3318.40 of the Revised Code and the order 25762  
of priority prescribed in division (B) of section 3318.42 of the 25763  
Revised Code, except that in fiscal year 2004 the commission shall 25764  
conduct at least the five assessments prescribed in division (E) 25765  
of section 3318.40 of the Revised Code. 25766

Upon conducting an assessment of the classroom facilities 25767

needs of a school district, the commission shall make a 25768  
determination of all of the following: 25769

(a) The number of classroom facilities to be included in a 25770  
project, ~~including classroom facilities authorized by a bond~~ 25771  
~~issuedescribed in section 3318.033 of the Revised Code,~~ and the 25772  
basic project cost of acquiring the classroom facilities included 25773  
in the project. The number of facilities and basic project cost 25774  
shall be determined in accordance with the specifications adopted 25775  
under section 3318.311 of the Revised Code except to the extent 25776  
that compliance with such specifications is waived by the 25777  
commission pursuant to the rule of the commission adopted under 25778  
division (F) of section 3318.40 of the Revised Code. 25779

(b) The school district's portion of the basic project cost 25780  
as determined under division (C) of section 3318.42 of the Revised 25781  
Code; 25782

(c) The remaining portion of the basic project cost that 25783  
shall be supplied by the state; 25784

(d) The amount of the state's portion of the basic project 25785  
cost to be encumbered in accordance with section 3318.11 of the 25786  
Revised Code in the current and subsequent fiscal bienniums from 25787  
funds set aside under division (B) of section 3318.40 of the 25788  
Revised Code. 25789

(2) Divisions (A), (C), and (D) of section 3318.03 of the 25790  
Revised Code apply to any project under sections 3318.40 to 25791  
3318.45 of the Revised Code. 25792

(B)(1) If the commission makes a determination under division 25793  
(A) of this section in favor of the acquisition of classroom 25794  
facilities for a project under sections 3318.40 to 3318.45 of the 25795  
Revised Code, such project shall be conditionally approved. Such 25796  
conditional approval shall be submitted to the controlling board 25797  
for approval. The controlling board shall immediately approve or 25798



reject the commission's determination, conditional approval, the 25799  
amount of the state's portion of the basic project cost, and the 25800  
amount of the state's portion of the basic project cost to be 25801  
encumbered in the current fiscal biennium. In the event of 25802  
approval by the controlling board, the commission shall certify 25803  
the conditional approval to the joint vocational school district 25804  
board of education and shall encumber the approved funds for the 25805  
current fiscal year. 25806

(2) No school district that receives assistance under 25807  
sections 3318.40 to 3318.45 of the Revised Code shall have another 25808  
such project conditionally approved until the expiration of twenty 25809  
years after the school district's prior project was conditionally 25810  
approved, unless the school district board demonstrates to the 25811  
satisfaction of the commission that the school district has 25812  
experienced since conditional approval of its prior project an 25813  
exceptional increase in enrollment or program requirements 25814  
significantly above the school district's design capacity under 25815  
that prior project as determined by rule of the commission. Any 25816  
rule adopted by the commission to implement this division shall be 25817  
tailored to address the classroom facilities needs of joint 25818  
vocational school districts. 25819

(C) In addition to generating the amount of the school 25820  
district's portion of the basic project cost as determined under 25821  
division (C) of section 3318.42 of the Revised Code, in order for 25822  
a school district to receive assistance under sections 3318.40 to 25823  
3318.45 of the Revised Code, the school district board shall set 25824  
aside school district moneys for the maintenance of the classroom 25825  
facilities included in the school district's project in the amount 25826  
and manner prescribed in section 3318.43 of the Revised Code. 25827

(D)(1) The conditional approval for a project certified under 25828  
division (B)(1) of this section shall lapse and the amount 25829  
reserved and encumbered for such project shall be released unless 25830

both of the following conditions are satisfied: 25831

(a) Within one hundred twenty days following the date of 25832  
certification of the conditional approval to the joint vocational 25833  
school district board, the school district board accepts the 25834  
conditional approval and certifies to the commission the school 25835  
district board's plan to generate the school district's portion of 25836  
the basic project cost, as determined under division (C) of 25837  
section 3318.42 of the Revised Code, and to set aside moneys for 25838  
maintenance of the classroom facilities acquired under the 25839  
project, as prescribed in section 3318.43 of the Revised Code. 25840

(b) Within one year following the date of certification of 25841  
the conditional approval to the school district board, the 25842  
electors of the school district vote favorably on any ballot 25843  
measures proposed by the school district board to generate the 25844  
school district's portion of the basic project cost. 25845

(2) If the school district board or electors fail to satisfy 25846  
the conditions prescribed in division (D)(1) of this section and 25847  
the amount reserved and encumbered for the school district's 25848  
project is released, the school district shall be given first 25849  
priority over other joint vocational school districts for project 25850  
funding under sections 3318.40 to 3318.45 of the Revised Code as 25851  
such funds become available. 25852

(E) If the conditions prescribed in division (D)(1) of this 25853  
section are satisfied, the commission and the school district 25854  
board shall enter into an agreement as prescribed in section 25855  
3318.08 of the Revised Code and shall proceed with the development 25856  
of plans, cost estimates, designs, drawings, and specifications as 25857  
prescribed in section 3318.091 of the Revised Code. 25858

(F) Costs in excess of those approved by the commission under 25859  
section 3318.091 of the Revised Code shall be payable only as 25860  
provided in sections 3318.042 and 3318.083 of the Revised Code. 25861

(G) Advertisement for bids and the award of contracts for 25862  
construction of any project under sections 3318.40 to 3318.45 of 25863  
the Revised Code shall be conducted in accordance with section 25864  
3318.10 of the Revised Code. 25865

(H) The state funds reserved and encumbered and the funds 25866  
provided by the school district to pay the basic project cost of a 25867  
project under sections 3318.40 to 3318.45 of the Revised Code 25868  
shall be spent simultaneously in proportion to the state's and the 25869  
school district's respective portions of that basic project cost. 25870

(I) Sections 3318.13, 3318.14, and 3318.16 of the Revised 25871  
Code apply to projects under sections 3318.40 to 3318.45 of the 25872  
Revised Code. 25873

**Sec. 3319.01.** Except in an island school district, where the 25874  
superintendent of an educational service center otherwise may 25875  
serve as superintendent of the district and except as otherwise 25876  
provided for any cooperative education school district pursuant to 25877  
division (B)(2) of section 3311.52 or division (B)(3) of section 25878  
3311.521 of the Revised Code, the board of education in each 25879  
school district and the governing board of each service center 25880  
shall, at a regular or special meeting held not later than the 25881  
first day of May of the calendar year in which the term of the 25882  
superintendent expires, appoint a person possessed of the 25883  
qualifications provided in this section to act as superintendent, 25884  
for a term not longer than five years beginning the first day of 25885  
August and ending on the thirty-first day of July. Such 25886  
superintendent is, at the expiration of a current term of 25887  
employment, deemed reemployed for a term of one year at the same 25888  
salary plus any increments that may be authorized by the board, 25889  
unless such board, on or before the first day of March of the year 25890  
in which the contract of employment expires, either reemploys the 25891  
superintendent for a succeeding term as provided in this section 25892

or gives to the superintendent written notice of its intention not 25893  
to reemploy the superintendent. A superintendent may not be 25894  
transferred to any other position during the term of the 25895  
superintendent's employment or reemployment except by mutual 25896  
agreement by the superintendent and the board. If a vacancy occurs 25897  
in the office of superintendent, the board shall appoint a 25898  
superintendent for a term not to exceed five years from the next 25899  
preceding first day of August. 25900

~~Except as otherwise provided in this section, the employment 25901  
or reemployment of a superintendent of a local school district 25902  
shall be only upon the recommendation of the service center 25903  
superintendent, except that a local board of education, by a 25904  
three fourths vote of its full membership, may, after considering 25905  
two nominations for the position of local superintendent made by 25906  
the service center superintendent, employ or reemploy a person not 25907  
so nominated for such position. 25908~~

A board may at any regular or special meeting held during the 25909  
period beginning on the first day of January of the calendar year 25910  
immediately preceding the year the contract of employment of a 25911  
superintendent expires and ending on the first day of March of the 25912  
year it expires, reemploy such superintendent for a succeeding 25913  
term for not longer than five years, beginning on the first day of 25914  
August immediately following the expiration of the 25915  
superintendent's current term of employment and ending on the 25916  
thirty-first day of July of the year in which such succeeding term 25917  
expires. No person shall be appointed to the office of 25918  
superintendent of a city, or exempted village school district or a 25919  
service center who does not hold a license designated for being a 25920  
superintendent issued under section 3319.22 of the Revised Code, 25921  
unless such person had been employed as a county, city, or 25922  
exempted village superintendent prior to August 1, 1939. No person 25923  
shall be appointed to the office of local superintendent who does 25924

not hold a license designated for being a superintendent issued 25925  
under section 3319.22 of the Revised Code, unless such person held 25926  
or was qualified to hold the position of executive head of a local 25927  
school district on September 16, 1957. At the time of making such 25928  
appointment or designation of term, such board shall fix the 25929  
compensation of the superintendent, which may be increased or 25930  
decreased during such term, provided such decrease is a part of a 25931  
uniform plan affecting salaries of all employees of the district, 25932  
and shall execute a written contract of employment with such 25933  
superintendent. 25934

Each board shall adopt procedures for the evaluation of its 25935  
superintendent and shall evaluate its superintendent in accordance 25936  
with those procedures. An evaluation based upon such procedures 25937  
shall be considered by the board in deciding whether to renew the 25938  
superintendent's contract. The establishment of an evaluation 25939  
procedure shall not create an expectancy of continued employment. 25940  
Nothing in this section shall prevent a board from making the 25941  
final determination regarding the renewal or failure to renew of a 25942  
superintendent's contract. 25943

Termination of a superintendent's contract shall be pursuant 25944  
to section 3319.16 of the Revised Code. 25945

A board may establish vacation leave for its superintendent. 25946  
Upon the superintendent's separation from employment a board that 25947  
has such leave may provide compensation at the superintendent's 25948  
current rate of pay for all lawfully accrued and unused vacation 25949  
leave to the superintendent's credit at the time of separation, 25950  
not to exceed the amount accrued within three years before the 25951  
date of separation. In case of the death of a superintendent, such 25952  
unused vacation leave as the board would have paid to this 25953  
superintendent upon separation shall be paid in accordance with 25954  
section 2113.04 of the Revised Code, or to the superintendent's 25955  
estate. 25956

The superintendent shall be the executive officer for the board. ~~Except as otherwise provided in this section for local school districts, the~~ The superintendent shall direct and assign teachers and other employees of the district or service center, except as provided in section 3319.04 of the Revised Code; assign the pupils to the proper schools and grades, provided that the assignment of a pupil to a school outside of the pupil's district of residence is approved by the board of the district of residence of such pupil; and perform such other duties as the board determines. ~~The service center superintendent shall exercise the responsibilities of this section with regard to the assignment of pupils and teachers for local school districts under the supervision of the service center, except that the board of education of a local school district and the governing board of the educational service center of which the local district is a part may enter into an agreement requiring the local superintendent, instead of the superintendent of the educational service center, to exercise the responsibilities of this section with regard to the assignment of pupils and teachers for the local school district.~~

The board of education of any school district may contract with the governing board of the educational service center from which it otherwise receives services to conduct searches and recruitment of candidates for the superintendent position authorized under this section.

**Sec. 3319.02.** (A)(1) As used in this section, "other administrator" means either any of the following:

(a) Except as provided in division (A)(2) of this section, any employee in a position for which a board of education requires a license designated by rule of the department of education for being an administrator issued under section 3319.22 of the Revised

Code, including a professional pupil services employee or 25988  
administrative specialist or an equivalent of either one who is 25989  
not employed as a school counselor and spends less than fifty per 25990  
cent of the time employed teaching or working with students; 25991

(b) Any nonlicensed employee whose job duties enable such 25992  
employee to be considered as either a "supervisor" or a 25993  
"management level employee," as defined in section 4117.01 of the 25994  
Revised Code; 25995

(c) A business manager appointed under section 3319.03 of the 25996  
Revised Code. 25997

(2) As used in this section, "other administrator" does not 25998  
include a superintendent, assistant superintendent, principal, or 25999  
assistant principal. 26000

(B) The board of education of each school district and the 26001  
governing board of an educational service center may appoint one 26002  
or more assistant superintendents and such other administrators as 26003  
are necessary. An assistant educational service center 26004  
superintendent or service center supervisor employed on a 26005  
part-time basis may also be employed by a local board as a 26006  
teacher. The board of each city, exempted village, and local 26007  
school district shall employ principals for all high schools and 26008  
for such other schools as the board designates, and those boards 26009  
may appoint assistant principals for any school that they 26010  
designate. 26011

(C) In educational service centers and in city ~~and~~, exempted 26012  
village, and local school districts, assistant superintendents, 26013  
principals, assistant principals, and other administrators shall 26014  
only be employed or reemployed in accordance with nominations of 26015  
the superintendent, except that a ~~city or exempted village~~ board 26016  
of education of a school district or the governing board of a 26017  
service center, by a three-fourths vote of its full membership, 26018

may reemploy any assistant superintendent, principal, assistant 26019  
principal, or other administrator whom the superintendent refuses 26020  
to nominate. ~~In local school districts, assistant superintendents,~~ 26021  
~~principals, assistant principals, and other administrators shall~~ 26022  
~~only be employed or reemployed in accordance with nominations of~~ 26023  
~~the superintendent of the service center of which the local~~ 26024  
~~district is a part, except that a local board of education, by a~~ 26025  
~~three fourths vote of its full membership, may reemploy any~~ 26026  
~~assistant superintendent, principal, assistant principal, or other~~ 26027  
~~administrator whom such superintendent refuses to nominate.~~ 26028

The board of education or governing board shall execute a 26029  
written contract of employment with each assistant superintendent, 26030  
principal, assistant principal, and other administrator it employs 26031  
or reemploys. The term of such contract shall not exceed three 26032  
years except that in the case of a person who has been employed as 26033  
an assistant superintendent, principal, assistant principal, or 26034  
other administrator in the district or center for three years or 26035  
more, the term of the contract shall be for not more than five 26036  
years and, unless the superintendent of the district recommends 26037  
otherwise, not less than two years. If the superintendent so 26038  
recommends, the term of the contract of a person who has been 26039  
employed by the district or service center as an assistant 26040  
superintendent, principal, assistant principal, or other 26041  
administrator for three years or more may be one year, but all 26042  
subsequent contracts granted such person shall be for a term of 26043  
not less than two years and not more than five years. When a 26044  
teacher with continuing service status becomes an assistant 26045  
superintendent, principal, assistant principal, or other 26046  
administrator with the district or service center with which the 26047  
teacher holds continuing service status, the teacher retains such 26048  
status in the teacher's nonadministrative position as provided in 26049  
sections 3319.08 and 3319.09 of the Revised Code. 26050



A board of education or governing board may reemploy an 26051  
assistant superintendent, principal, assistant principal, or other 26052  
administrator at any regular or special meeting held during the 26053  
period beginning on the first day of January of the calendar year 26054  
immediately preceding the year of expiration of the employment 26055  
contract and ending on the last day of March of the year the 26056  
employment contract expires. 26057

Except by mutual agreement of the parties thereto, no 26058  
assistant superintendent, principal, assistant principal, or other 26059  
administrator shall be transferred during the life of a contract 26060  
to a position of lesser responsibility. No contract may be 26061  
terminated by a board except pursuant to section 3319.16 of the 26062  
Revised Code. No contract may be suspended except pursuant to 26063  
section 3319.17 or 3319.171 of the Revised Code. The salaries and 26064  
compensation prescribed by such contracts shall not be reduced by 26065  
a board unless such reduction is a part of a uniform plan 26066  
affecting the entire district or center. The contract shall 26067  
specify the employee's administrative position and duties as 26068  
included in the job description adopted under division (D) of this 26069  
section, the salary and other compensation to be paid for 26070  
performance of duties, the number of days to be worked, the number 26071  
of days of vacation leave, if any, and any paid holidays in the 26072  
contractual year. 26073

An assistant superintendent, principal, assistant principal, 26074  
or other administrator is, at the expiration of the current term 26075  
of employment, deemed reemployed at the same salary plus any 26076  
increments that may be authorized by the board, unless such 26077  
employee notifies the board in writing to the contrary on or 26078  
before the first day of June, or unless such board, on or before 26079  
the last day of March of the year in which the contract of 26080  
employment expires, either reemploys such employee for a 26081  
succeeding term or gives written notice of its intention not to 26082

reemploy the employee. The term of reemployment of a person 26083  
reemployed under this paragraph shall be one year, except that if 26084  
such person has been employed by the school district or service 26085  
center as an assistant superintendent, principal, assistant 26086  
principal, or other administrator for three years or more, the 26087  
term of reemployment shall be two years. 26088

(D)(1) Each board shall adopt procedures for the evaluation 26089  
of all assistant superintendents, principals, assistant 26090  
principals, and other administrators and shall evaluate such 26091  
employees in accordance with those procedures. The evaluation 26092  
based upon such procedures shall be considered by the board in 26093  
deciding whether to renew the contract of employment of an 26094  
assistant superintendent, principal, assistant principal, or other 26095  
administrator. 26096

(2) The evaluation shall measure each assistant 26097  
superintendent's, principal's, assistant principal's, and other 26098  
administrator's effectiveness in performing the duties included in 26099  
the job description and the evaluation procedures shall provide 26100  
for, but not be limited to, the following: 26101

(a) Each assistant superintendent, principal, assistant 26102  
principal, and other administrator shall be evaluated annually 26103  
through a written evaluation process. 26104

(b) The evaluation shall be conducted by the superintendent 26105  
or designee. 26106

(c) In order to provide time to show progress in correcting 26107  
the deficiencies identified in the evaluation process, the 26108  
evaluation process shall be completed as follows: 26109

(i) In any school year that the employee's contract of 26110  
employment is not due to expire, at least one evaluation shall be 26111  
completed in that year. A written copy of the evaluation shall be 26112  
provided to the employee no later than the end of the employee's 26113

contract year as defined by the employee's annual salary notice. 26114

(ii) In any school year that the employee's contract of 26115  
employment is due to expire, at least a preliminary evaluation and 26116  
at least a final evaluation shall be completed in that year. A 26117  
written copy of the preliminary evaluation shall be provided to 26118  
the employee at least sixty days prior to any action by the board 26119  
on the employee's contract of employment. The final evaluation 26120  
shall indicate the superintendent's intended recommendation to the 26121  
board regarding a contract of employment for the employee. A 26122  
written copy of the evaluation shall be provided to the employee 26123  
at least five days prior to the board's acting to renew or not 26124  
renew the contract. 26125

(3) Termination of an assistant superintendent, principal, 26126  
assistant principal, or other administrator's contract shall be 26127  
pursuant to section 3319.16 of the Revised Code. Suspension of any 26128  
such employee shall be pursuant to section 3319.17 or 3319.171 of 26129  
the Revised Code. 26130

(4) Before taking action to renew or nonrenew the contract of 26131  
an assistant superintendent, principal, assistant principal, or 26132  
other administrator under this section and prior to the last day 26133  
of March of the year in which such employee's contract expires, 26134  
the board shall notify each such employee of the date that the 26135  
contract expires and that the employee may request a meeting with 26136  
the board. Upon request by such an employee, the board shall grant 26137  
the employee a meeting in executive session. In that meeting, the 26138  
board shall discuss its reasons for considering renewal or 26139  
nonrenewal of the contract. The employee shall be permitted to 26140  
have a representative, chosen by the employee, present at the 26141  
meeting. 26142

(5) The establishment of an evaluation procedure shall not 26143  
create an expectancy of continued employment. Nothing in division 26144  
(D) of this section shall prevent a board from making the final 26145

determination regarding the renewal or nonrenewal of the contract 26146  
of any assistant superintendent, principal, assistant principal, 26147  
or other administrator. However, if a board fails to provide 26148  
evaluations pursuant to division (D)(2)(c)(i) or (ii) of this 26149  
section, or if the board fails to provide at the request of the 26150  
employee a meeting as prescribed in division (D)(4) of this 26151  
section, the employee automatically shall be reemployed at the 26152  
same salary plus any increments that may be authorized by the 26153  
board for a period of one year, except that if the employee has 26154  
been employed by the district or service center as an assistant 26155  
superintendent, principal, assistant principal, or other 26156  
administrator for three years or more, the period of reemployment 26157  
shall be for two years. 26158

(E) On nomination of the superintendent of a service center a 26159  
governing board may employ supervisors who shall be employed under 26160  
written contracts of employment for terms not to exceed five years 26161  
each. Such contracts may be terminated by a governing board 26162  
pursuant to section 3319.16 of the Revised Code. Any supervisor 26163  
employed pursuant to this division may terminate the contract of 26164  
employment at the end of any school year after giving the board at 26165  
least thirty days' written notice prior to such termination. On 26166  
the recommendation of the superintendent the contract or contracts 26167  
of any supervisor employed pursuant to this division may be 26168  
suspended for the remainder of the term of any such contract 26169  
pursuant to section 3319.17 or 3319.171 of the Revised Code. 26170

(F) A board may establish vacation leave for any individuals 26171  
employed under this section. Upon such an individual's separation 26172  
from employment, a board that has such leave may compensate such 26173  
an individual at the individual's current rate of pay for all 26174  
lawfully accrued and unused vacation leave credited at the time of 26175  
separation, not to exceed the amount accrued within three years 26176  
before the date of separation. In case of the death of an 26177

individual employed under this section, such unused vacation leave 26178  
as the board would have paid to the individual upon separation 26179  
under this section shall be paid in accordance with section 26180  
2113.04 of the Revised Code, or to the estate. 26181

(G) The board of education of any school district may 26182  
contract with the governing board of the educational service 26183  
center from which it otherwise receives services to conduct 26184  
searches and recruitment of candidates for assistant 26185  
superintendent, principal, assistant principal, and other 26186  
administrator positions authorized under this section. 26187

**Sec. 3319.03.** The board of education of each city, exempted 26188  
village, and local school district may create the position of 26189  
business manager. The board shall ~~elect~~ appoint such business 26190  
manager who shall serve ~~for a term not to exceed four years unless~~ 26191  
~~earlier removed for cause~~ pursuant to a contract in accordance 26192  
with section 3319.02 of the Revised Code. A vacancy in this office 26193  
~~shall be filled only for the unexpired term thereof.~~ In the 26194  
discharge of all ~~his~~ official duties, the business manager may be 26195  
directly responsible to the board, or to the superintendent of 26196  
schools, as the board directs at the time of ~~election~~ appointment 26197  
to the position. Where such business manager is responsible to the 26198  
superintendent ~~he~~ the business manager shall be appointed by the 26199  
superintendent and confirmed by the board. 26200

No board of education shall ~~elect~~ appoint or confirm as 26201  
business manager any person who does not hold a valid business 26202  
manager's license issued under section 3301.074 of the Revised 26203  
Code. If the business manager fails to maintain a valid license, 26204  
~~he~~ the business manager shall be removed by the board. 26205

**Sec. 3319.07.** (A) The board of education of each city, 26206  
exempted village, ~~and~~ local, and joint vocational school district 26207

shall employ the teachers of the public schools of their 26208  
respective districts. 26209

The governing board of each educational service center may 26210  
employ special instruction teachers, special education teachers, 26211  
and teachers of academic courses in which there are too few 26212  
students in each of the constituent local school districts or in 26213  
city or exempted village school districts entering into agreements 26214  
pursuant to section 3313.843 of the Revised Code to warrant each 26215  
district's employing teachers for those courses. 26216

When any board makes appointments of teachers, the teachers 26217  
in the employ of the board shall be considered before new teachers 26218  
are chosen in their stead. In ~~city, exempted village, and joint~~ 26219  
~~vocational~~ all school districts and in service centers no teacher 26220  
shall be employed unless such person is nominated by the 26221  
superintendent of such district or center. Such board, by a 26222  
three-fourths vote of its full membership, may re-employ any 26223  
teacher whom the superintendent refuses to appoint. ~~In local~~ 26224  
~~school districts, no teacher shall be employed, except as provided~~ 26225  
~~in division (B) of this section, unless nominated by the~~ 26226  
~~superintendent of the service center of which such local school~~ 26227  
~~district is a part; by a majority vote of the full membership of~~ 26228  
~~such board, the board of education of any local school district~~ 26229  
~~may, after considering two nominations for any position made by~~ 26230  
~~the service center superintendent, reemploy a person not so~~ 26231  
~~nominated for such position.~~ 26232

(B) The board of education of a ~~local~~ any school district ~~and~~ 26233  
~~the board of education of the county school district of which the~~ 26234  
~~local district is a part may enter into an agreement authorizing~~ 26235  
~~the superintendent of the local district, in lieu of the~~ 26236  
~~superintendent of the county district, to make nominations under~~ 26237  
~~this section for the employment of teachers in the local district.~~ 26238  
~~While such an agreement is in effect the board of education of the~~ 26239

~~local district shall not employ any teacher unless the person is~~ 26240  
~~nominated by the superintendent of the district except that, by a~~ 26241  
~~three-fourths vote of its full membership, it may re-employ any~~ 26242  
~~teacher whom the superintendent refuses to nominate~~ may contract 26243  
with the governing board of the educational service center from 26244  
which it otherwise receives services to conduct searches and 26245  
recruitment of candidates for teacher positions. 26246

**Sec. 3319.19.** (A) Except as provided in division (D) of this 26247  
section or division (A)(2) of section 3313.37 of the Revised Code, 26248  
upon request, the board of county commissioners shall provide and 26249  
equip offices in the county for the use of the superintendent of 26250  
an educational service center, and shall provide heat, light, 26251  
water, and janitorial services for such offices. Such offices 26252  
shall be the permanent headquarters of the superintendent and 26253  
shall be used by the governing board of the service center when it 26254  
is in session. Except as provided in division (B) of this section, 26255  
such offices shall be located in the county seat or, upon the 26256  
approval of the governing board, may be located outside of the 26257  
county seat. 26258

(B) In the case of a service center formed under section 26259  
3311.053 or 3311.059 of the Revised Code, the governing board 26260  
shall designate the site of its offices. Except as provided in 26261  
division (D) of this section or division (A)(2) of section 3313.37 26262  
of the Revised Code, the board of county commissioners of the 26263  
county in which the designated site is located shall provide and 26264  
equip the offices as under division (A) of this section, but the 26265  
costs of such offices and equipment shall be apportioned among the 26266  
boards of county commissioners of all counties having any 26267  
territory in the area under the control of the governing board, 26268  
according to the proportion of local school district pupils under 26269  
the supervision of such board residing in the respective counties. 26270  
Where there is a dispute as to the amount any board of county 26271

commissioners is required to pay, the probate judge of the county 26272  
in which the greatest number of pupils under the supervision of 26273  
the governing board reside shall apportion such costs among the 26274  
boards of county commissioners and notify each such board of its 26275  
share of the costs. 26276

(C) ~~Not~~ As used in division (C) of this section, in the case 26277  
of a building, facility, or office space that a board of county 26278  
commissioners leases or rents, "actual cost per square foot" means 26279  
all cost on a per square foot basis incurred by the board under 26280  
the lease or rental agreement. In the case of a building, 26281  
facility, or office space that the board owns in fee simple, 26282  
"actual cost per square foot" means the fair rental value on a per 26283  
square foot basis of the building, facility, or office space 26284  
either as compared to a similarly situated building, facility, or 26285  
office space in the general vicinity or as calculated under a 26286  
formula that accounts for depreciation, amortization of 26287  
improvements, and other reasonable factors, including, but not 26288  
limited to, parking space and other amenities. 26289

Not later than the thirty-first day of March of 2002, 2003, 26290  
2004, and 2005 a board of county commissioners required to provide 26291  
or equip offices pursuant to division (A) or (B) of this section 26292  
shall make a written estimate of the total cost it will incur for 26293  
the ensuing fiscal year to provide and equip the offices and to 26294  
provide heat, light, water, and janitorial services for such 26295  
offices. The total estimate of cost shall include: 26296

(1) The total square feet of space to be utilized by the 26297  
educational service center; 26298

(2) The total square feet of any common areas that should be 26299  
reasonably allocated to the center and the methodology for making 26300  
this allocation; 26301

(3) The actual cost per square foot for both the space 26302



utilized by and the common area allocated to the center; 26303

(4) An explanation of the methodology used to determine the 26304  
actual cost per square foot ~~cost~~; 26305

(5) The estimated cost of providing heat, light, and water, 26306  
including an explanation of how these costs were determined; 26307

(6) The estimated cost of providing janitorial services 26308  
including an explanation of the methodology used to determine this 26309  
cost; 26310

(7) Any other estimated costs that the board anticipates it 26311  
will occur and a detailed explanation of the costs and the 26312  
rationale used to determine such costs. 26313

A copy of the total estimate of costs under this division 26314  
shall be sent to the superintendent of the educational service 26315  
center not later than the fifth day of April. The superintendent 26316  
shall review the total estimate and shall notify the board of 26317  
county commissioners not later than twenty days after receipt of 26318  
the estimate of either agreement with the estimate or any specific 26319  
objections to the estimates and the reasons for the objections. If 26320  
the superintendent agrees with the estimate, it shall become the 26321  
final total estimate of cost. Failure of the superintendent to 26322  
make objections to the estimate by the twentieth day after receipt 26323  
of it shall be deemed to mean that the superintendent is in 26324  
agreement with the estimate. 26325

If the superintendent provides specific objections to the 26326  
board of county commissioners, the board shall review the 26327  
objections and may modify the original estimate and shall send a 26328  
revised total estimate to the superintendent within ten days after 26329  
the receipt of the superintendent's objections. The superintendent 26330  
shall respond to the revised estimate within ten days after its 26331  
receipt. If the superintendent agrees with it, it shall become the 26332  
final total estimated cost. If the superintendent fails to respond 26333

within the required time, the superintendent shall be deemed to 26334  
have agreed with the revised estimate. If the superintendent 26335  
disagrees with the revised estimate, the superintendent shall send 26336  
specific objections to the county commissioners. 26337

If a superintendent has sent specific objections to the 26338  
revised estimate within the required time, the probate judge of 26339  
the county which has the greatest number of resident local school 26340  
district pupils under the supervision of the educational service 26341  
center shall determine the final estimated cost and certify this 26342  
amount to the superintendent and the board of county commissioners 26343  
prior to the first day of July. 26344

(D)(1) A board of county commissioners shall be responsible 26345  
for the following percentages of the final total estimated cost 26346  
established by division (C) of this section: 26347

(a) Eighty per cent for fiscal year 2003; 26348

(b) Sixty per cent for fiscal year 2004; 26349

(c) Forty per cent for fiscal year 2005; 26350

(d) Twenty per cent for fiscal year 2006. 26351

In fiscal years 2003, 2004, 2005, and 2006 the educational 26352  
service center shall be responsible for the remainder of any costs 26353  
in excess of the amounts specified in division (D)(1)(a), (b), ~~or~~ 26354  
(c), or (d) of this section, as applicable, associated with the 26355  
provision and equipment of offices for the educational service 26356  
center and for provision of heat, light, water, and janitorial 26357  
services for such offices, including any unanticipated or 26358  
unexpected increases in the costs beyond the final estimated cost 26359  
amount. 26360

Beginning in fiscal year 2007, no board of county 26361  
commissioners shall have any obligation to provide and equip 26362  
offices for an educational service center or to provide heat, 26363

light, water, or janitorial services for such offices. 26364

(2) Nothing in this section shall prohibit the board of 26365  
county commissioners and the governing board of an educational 26366  
service center from entering into a contract for providing and 26367  
equipping offices for the use of an educational service center and 26368  
for providing heat, light, water, and janitorial services for such 26369  
offices. The term of any such contract shall not exceed a period 26370  
of four years and may be renewed for additional periods not to 26371  
exceed four years. Any such contract shall supersede the 26372  
provisions of division (D)(1) of this section and no educational 26373  
service center may be charged, at any time, any additional amount 26374  
for the county's provision of an office and equipment, heat, 26375  
light, water, and janitorial services beyond the amount specified 26376  
in such contract. 26377

(3) No contract entered into under division (D)(2) of this 26378  
section in any year prior to fiscal year 2007 between an 26379  
educational service center formed under section 3311.053 or 26380  
3311.059 of the Revised Code and the board of county commissioners 26381  
required to provide and equip its office pursuant to division (B) 26382  
of this section shall take effect unless the boards of county 26383  
commissioners of all other counties required to participate in the 26384  
funding for such offices pursuant to division (B) of this section 26385  
adopt resolutions approving the contract. 26386

**Sec. 3319.22.** (A)(1) The state board of education shall adopt 26387  
rules establishing the standards and requirements for obtaining 26388  
temporary, associate, provisional, and professional educator 26389  
licenses of any categories, types, and levels the board elects to 26390  
provide. However, no educator license shall be required for 26391  
teaching children two years old or younger. 26392

(2) If the state board requires any examinations for educator 26393  
licensure, the department of education shall provide the results 26394

of such examinations to the Ohio board of regents, in the form and 26395  
manner requested by the board of regents. 26396

(B) Any rules the state board of education adopts, amends, or 26397  
rescinds for educator licenses under this section, division (D) of 26398  
section 3301.07 of the Revised Code, or any other law shall be 26399  
adopted, amended, or rescinded under Chapter 119. of the Revised 26400  
Code except as follows: 26401

(1) Notwithstanding division (D) of section 119.03 and 26402  
division (A)(1) of section 119.04 of the Revised Code, the 26403  
effective date of any rules, or amendment or rescission of any 26404  
rules, shall not be as prescribed in division (D) of section 26405  
119.03 and division (A)(1) of section 119.04 of the Revised Code. 26406  
Instead, the effective date shall be the date prescribed by 26407  
section 3319.23 of the Revised Code. 26408

(2) Notwithstanding the authority to adopt, amend, or rescind 26409  
emergency rules in division (F) of section 119.03 of the Revised 26410  
Code, this authority shall not apply to the state board of 26411  
education with regard to rules for educator licenses. 26412

(C)(1) The rules adopted under this section establishing 26413  
standards requiring additional coursework for the renewal of any 26414  
educator license shall require a school district and a chartered 26415  
nonpublic school to establish local professional development 26416  
committees. In a nonpublic school, the chief administrative 26417  
officer shall establish the committees in any manner acceptable to 26418  
such officer. The committees established under this division shall 26419  
determine whether coursework that a district or chartered 26420  
nonpublic school teacher proposes to complete meets the 26421  
requirement of the rules. The rules shall establish a procedure by 26422  
which a teacher may appeal the decision of a local professional 26423  
development committee. 26424

(2) In any school district in which there is no exclusive 26425

representative established under Chapter 4117. of the Revised 26426  
Code, the professional development committees shall be established 26427  
as described in division (C)(2) of this section. 26428

Not later than the effective date of the rules adopted under 26429  
this section, the board of education of each school district shall 26430  
establish the structure for one or more local professional 26431  
development committees to be operated by such school district. The 26432  
committee structure so established by a district board shall 26433  
remain in effect unless within thirty days prior to an anniversary 26434  
of the date upon which the current committee structure was 26435  
established, the board provides notice to all affected district 26436  
employees that the committee structure is to be modified. 26437  
Professional development committees may have a district-level or 26438  
building-level scope of operations, and may be established with 26439  
regard to particular grade or age levels for which an educator 26440  
license is designated. 26441

Each professional development committee shall consist of at 26442  
least three classroom teachers employed by the district, one 26443  
principal employed by the district, and one other employee of the 26444  
district appointed by the district superintendent. For committees 26445  
with a building-level scope, the teacher and principal members 26446  
shall be assigned to that building, and the teacher members shall 26447  
be elected by majority vote of the classroom teachers assigned to 26448  
that building. For committees with a district-level scope, the 26449  
teacher members shall be elected by majority vote of the classroom 26450  
teachers of the district, and the principal member shall be 26451  
elected by a majority vote of the principals of the district, 26452  
unless there are two or fewer principals employed by the district, 26453  
in which case the one or two principals employed shall serve on 26454  
the committee. If a committee has a particular grade or age level 26455  
scope, the teacher members shall be licensed to teach such grade 26456  
or age levels, and shall be elected by majority vote of the 26457

classroom teachers holding such a license and the principal shall 26458  
be elected by all principals serving in buildings where any such 26459  
teachers serve. The district superintendent shall appoint a 26460  
replacement to fill any vacancy that occurs on a professional 26461  
development committee, except in the case of vacancies among the 26462  
elected classroom teacher members, which shall be filled by vote 26463  
of the remaining members of the committee so selected. 26464

Terms of office on professional development committees shall 26465  
be prescribed by the district board establishing the committees. 26466  
The conduct of elections for members of professional development 26467  
committees shall be prescribed by the district board establishing 26468  
the committees. A professional development committee may include 26469  
additional members, except that the majority of members on each 26470  
such committee shall be classroom teachers employed by the 26471  
district. Any member appointed to fill a vacancy occurring prior 26472  
to the expiration date of the term for which a predecessor was 26473  
appointed shall hold office as a member for the remainder of that 26474  
term. 26475

The initial meeting of any professional development 26476  
committee, upon election and appointment of all committee members, 26477  
shall be called by a member designated by the district 26478  
superintendent. At this initial meeting, the committee shall 26479  
select a chairperson and such other officers the committee deems 26480  
necessary, and shall adopt rules for the conduct of its meetings. 26481  
Thereafter, the committee shall meet at the call of the 26482  
chairperson or upon the filing of a petition with the district 26483  
superintendent signed by a majority of the committee members 26484  
calling for the committee to meet. 26485

(3) In the case of a school district in which an exclusive 26486  
representative has been established pursuant to Chapter 4117. of 26487  
the Revised Code, professional development committees shall be 26488  
established in accordance with any collective bargaining agreement 26489

in effect in the district that includes provisions for such 26490  
committees. 26491

If the collective bargaining agreement does not specify a 26492  
different method for the selection of teacher members of the 26493  
committees, the exclusive representative of the district's 26494  
teachers shall select the teacher members. 26495

If the collective bargaining agreement does not specify a 26496  
different structure for the committees, the board of education of 26497  
the school district shall establish the structure, including the 26498  
number of committees and the number of teacher and administrative 26499  
members on each committee; the specific administrative members to 26500  
be part of each committee; whether the scope of the committees 26501  
will be district levels, building levels, or by type of grade or 26502  
age levels for which educator licenses are designated; the lengths 26503  
of terms for members; the manner of filling vacancies on the 26504  
committees; and the frequency and time and place of meetings. 26505  
However, in all cases, except as provided in division (C)(4) of 26506  
this section, there shall be a majority of teacher members of any 26507  
professional development committee, there shall be at least five 26508  
total members of any professional development committee, and the 26509  
exclusive representative shall designate replacement members in 26510  
the case of vacancies among teacher members, unless the collective 26511  
bargaining agreement specifies a different method of selecting 26512  
such replacements. 26513

(4) Whenever an administrator's coursework plan is being 26514  
discussed or voted upon, the local professional development 26515  
committee shall, at the request of one of its administrative 26516  
members, cause a majority of the committee to consist of 26517  
administrative members by reducing the number of teacher members 26518  
voting on the plan. 26519

(D)(1) The department of education, educational service 26520  
centers, county boards of mental retardation and developmental 26521

disabilities, regional professional development centers, special 26522  
education regional resource centers, college and university 26523  
departments of education, head start programs, the Ohio SchoolNet 26524  
commission, and the Ohio education computer network may establish 26525  
local professional development committees to determine whether the 26526  
coursework proposed by their employees who are licensed or 26527  
certificated under this section or section 3319.222 of the Revised 26528  
Code meet the requirements of the rules adopted under this 26529  
section. They may establish local professional development 26530  
committees on their own or in collaboration with a school district 26531  
or other agency having authority to establish them. 26532

Local professional development committees established by 26533  
county boards of mental retardation and developmental disabilities 26534  
shall be structured in a manner comparable to the structures 26535  
prescribed for school districts in divisions (C)(2) and (3) of 26536  
this section, as shall the committees established by any other 26537  
entity specified in division (D)(1) of this section that provides 26538  
educational services by employing or contracting for services of 26539  
classroom teachers licensed or certificated under this section or 26540  
section 3319.222 of the Revised Code. All other entities specified 26541  
in division (D)(1) of this section shall structure their 26542  
committees in accordance with guidelines which shall be issued by 26543  
the state board. 26544

(2) Any public agency that is not specified in division 26545  
(D)(1) of this section but provides educational services and 26546  
employs or contracts for services of classroom teachers licensed 26547  
or certificated under this section or section 3319.222 of the 26548  
Revised Code may establish a local professional development 26549  
committee, subject to the approval of the department of education. 26550  
The committee shall be structured in accordance with guidelines 26551  
issued by the state board. 26552



Sec. 3319.33. On or before the first day of August in each 26553  
year, the board of education of each city ~~and~~, exempted village, 26554  
and local school district shall report to the state board of 26555  
education, ~~and the board of each local school district shall~~ 26556  
~~report to the superintendent of the educational service center,~~ 26557  
the school statistics of its district. Such report shall be made 26558  
on forms furnished by the state board of education and shall 26559  
contain such information as the state board of education requires. 26560  
The report shall also set forth with respect to each civil 26561  
proceeding in which the board of education is a defendant and each 26562  
civil proceeding in which the board of education is a party and is 26563  
not a defendant and in which one of the other parties is a board 26564  
of education in this state or an officer, board, or official of 26565  
this state: 26566

(A) The nature of the proceeding; 26567

(B) The capacity in which the board is a party to the 26568  
proceeding; 26569

(C) The total expenses incurred by the board with respect to 26570  
the proceeding; 26571

(D) The total expenses incurred by the board with respect to 26572  
the proceeding during the reporting period. 26573

Divisions (A) to (D) of this section do not apply to any 26574  
proceeding for which no expenses have been incurred during the 26575  
reporting period. 26576

The board of education of each city ~~and~~, exempted village, 26577  
and local school district may prepare and publish annually a 26578  
report of the condition and administration of the schools under 26579  
its supervision which shall include therein an exhibit of the 26580  
financial affairs of the district and the information required in 26581  
divisions (A) to (D) of this section. Such annual report shall be 26582

for a full year. 26583

**Sec. 3319.36.** (A) No treasurer of a board of education or 26584  
educational service center shall draw a check for the payment of a 26585  
teacher for services until the teacher files with the treasurer 26586  
both of the following: 26587

(1) Such reports as are required by the state board of 26588  
education, the school district board of education, or the 26589  
superintendent of schools; 26590

(2) Except for a teacher who is engaged pursuant to section 26591  
3319.301 of the Revised Code ~~and except as provided under division~~ 26592  
~~(B) of this section,~~ a written statement from the city ~~or,~~ 26593  
exempted village, or local school district superintendent or the 26594  
educational service center superintendent that the teacher has 26595  
filed with the treasurer a legal educator license or internship 26596  
certificate, or true copy of it, to teach the subjects or grades 26597  
taught, with the dates of its validity. The state board of 26598  
education shall prescribe the record and administration for such 26599  
filing of educator licenses and internship certificates in 26600  
educational service centers. 26601

~~(B) If the board of education of a local school district and 26602  
the governing board of the educational service center of which the 26603  
local district is a part have entered into an agreement under 26604  
division (B) of section 3319.07 of the Revised Code, the agreement 26605  
may also require the superintendent of the local school district, 26606  
instead of the superintendent of the educational service center, 26607  
to administer the filing of educator licenses and internship 26608  
certificates for the local school district and to provide to the 26609  
teachers of the district the written statements required in 26610  
division (A)(2) of this section. While such an agreement is in 26611  
effect between a local school district and an educational service 26612  
center, a teacher employed by the local district shall file a 26613~~

~~legal educator license or internship certificate, or true copy of 26614  
it, with the superintendent of the local district and that 26615  
superintendent shall provide to the teacher the written statement 26616  
required by division (A)(2) of this section. 26617~~

~~(C)~~ Notwithstanding division (A) of this section, the 26618  
treasurer may pay either of the following: 26619

(1) Any teacher for services rendered during the first two 26620  
months of the teacher's initial employment with the school 26621  
district or educational service center, provided such teacher is 26622  
the holder of a bachelor's degree or higher and has filed with the 26623  
state board of education an application for the issuance of a 26624  
provisional or professional educator license. 26625

(2) Any substitute teacher for services rendered while 26626  
conditionally employed under section 3319.101 of the Revised Code. 26627

~~(D)~~(C) Upon notice to the treasurer given by the state board 26628  
of education or any superintendent having jurisdiction that 26629  
reports required of a teacher have not been made, the treasurer 26630  
shall withhold the salary of the teacher until the required 26631  
reports are completed and furnished. 26632

**Sec. 3323.16.** No unit for deaf children shall be disapproved 26633  
for funding under division (B) or (D)(1) of section 3317.05 of the 26634  
Revised Code on the basis of the methods of instruction used in 26635  
educational programs in the school district or institution to 26636  
teach deaf children to communicate, and no preference in approving 26637  
units for funding shall be given ~~by the state board~~ for teaching 26638  
deaf children by the oral, manual, total communication, or other 26639  
method of instruction. 26640

**Sec. 3327.01.** Notwithstanding division (D) of section 3311.19 26641  
and division (D) of section 3311.52 of the Revised Code, this 26642  
section and sections 3327.011, 3327.012, and 3327.02 of the 26643

Revised Code do not apply to any joint vocational or cooperative  
education school district. 26644  
26645

In all city, local, and exempted village school districts 26646  
where resident school pupils in grades kindergarten through eight 26647  
live more than two miles from the school for which the state board 26648  
of education prescribes minimum standards pursuant to division (D) 26649  
of section 3301.07 of the Revised Code and to which they are 26650  
assigned by the board of education of the district of residence or 26651  
to and from the nonpublic or community school which they attend 26652  
the board of education shall provide transportation for such 26653  
pupils to and from such school except as provided in section 26654  
3327.02 of the Revised Code. 26655

In all city, local, and exempted village school districts the 26656  
board may provide transportation for resident school pupils in 26657  
grades nine through twelve to and from the high school to which 26658  
they are assigned by the board of education of the district of 26659  
residence or to and from the nonpublic or community high school 26660  
which they attend for which the state board of education 26661  
prescribes minimum standards pursuant to division (D) of section 26662  
3301.07 of the Revised Code. 26663

A board of education shall not be required to transport 26664  
elementary or high school pupils to and from a nonpublic or 26665  
community school where such transportation would require more than 26666  
thirty minutes of direct travel time as measured by school bus 26667  
from the ~~collection point as~~ public school building to which the 26668  
pupils would be assigned if attending the public school designated 26669  
~~by the coordinator of school transportation, appointed under~~ 26670  
~~section 3327.011 of the Revised Code, for the attendance area of~~ 26671  
the district of residence. 26672

Where it is impractical to transport a pupil by school 26673  
conveyance, a board of education may offer payment, in lieu of 26674  
providing such transportation in accordance with section 3327.02 26675

of the Revised Code. 26676

In all city, local, and exempted village school districts the 26677  
board shall provide transportation for all children who are so 26678  
crippled that they are unable to walk to and from the school for 26679  
which the state board of education prescribes minimum standards 26680  
pursuant to division (D) of section 3301.07 of the Revised Code 26681  
and which they attend. In case of dispute whether the child is 26682  
able to walk to and from the school, the health commissioner shall 26683  
be the judge of such ability. In all city, exempted village, and 26684  
local school districts the board shall provide transportation to 26685  
and from school or special education classes for educable mentally 26686  
retarded children in accordance with standards adopted by the 26687  
state board of education. 26688

When transportation of pupils is provided the conveyance 26689  
shall be run on a time schedule that shall be adopted and put in 26690  
force by the board not later than ten days after the beginning of 26691  
the school term. 26692

The cost of any transportation service authorized by this 26693  
section shall be paid first out of federal funds, if any, 26694  
available for the purpose of pupil transportation, and secondly 26695  
out of state appropriations, in accordance with regulations 26696  
adopted by the state board of education. 26697

No transportation of any pupils shall be provided by any 26698  
board of education to or from any school which in the selection of 26699  
pupils, faculty members, or employees, practices discrimination 26700  
against any person on the grounds of race, color, religion, or 26701  
national origin. 26702

~~Sec. 3327.011. Coordinators of school transportation shall be 26703  
appointed according to provisions of section 3301.13 of the 26704  
Revised Code to assure that each pupil, as provided in section 26705  
3327.01 of the Revised Code, is transported to and from the school 26706~~

~~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, the necessary textbooks to the pupils attending the public schools. In lieu of textbooks, district boards may furnish electronic textbooks to pupils attending the public schools, provided the electronic textbooks are furnished free of charge. A district board that chooses to furnish electronic textbooks to pupils attending school in the district shall provide reasonable access to the electronic textbooks and other necessary computer equipment to pupils in the district who are required to complete homework assignments, and teachers providing homework assignments, utilizing electronic textbooks furnished by the district board.

Pupils wholly or in part supplied with necessary textbooks or 26739  
electronic textbooks shall be supplied only as other or new 26740  
textbooks or electronic textbooks are needed. ~~A board may limit~~ 26741  
~~its purchase and ownership of textbooks or electronic textbooks~~ 26742  
~~needed for its schools to six subjects per year, the cost of which~~ 26743  
~~shall not exceed twenty five per cent of the entire cost of~~ 26744  
~~adoption.~~ All textbooks or electronic textbooks furnished as 26745  
provided in this section shall be the property of the district, 26746  
and loaned to the pupils on such terms as each such board 26747  
prescribes. In order to carry out sections 3329.01 to 3329.10 of 26748  
the Revised Code, each board, in the preparation of its annual 26749  
budget, shall include as a separate item the amount which the 26750  
board finds necessary to administer such sections and such amount 26751  
shall not be subject to transfer to any other fund. 26752

**Sec. 3329.08.** At any regular meeting, the board of education 26753  
of each local school district, from lists adopted by the 26754  
educational service center governing board, and the board of 26755  
education of each city and exempted village school district shall 26756  
determine by a majority vote of all members elected or appointed 26757  
under division (B) or (F) of section 3311.71 of the Revised Code 26758  
which of such textbooks or electronic textbooks so filed shall be 26759  
used in the schools under its control. ~~Except for periodic and~~ 26760  
~~normal updating of electronic textbooks, no textbooks or~~ 26761  
~~electronic textbooks shall be changed, nor any part thereof~~ 26762  
~~altered or revised, nor any other textbook or electronic textbook~~ 26763  
~~substituted therefor, within four years after the date of~~ 26764  
~~selection and adoption thereof, as shown by the official records~~ 26765  
~~of such boards, except by the consent, at a regular meeting, of~~ 26766  
~~four fifths of all members elected thereto. Textbooks or~~ 26767  
~~electronic textbooks so substituted shall be adopted for the full~~ 26768  
~~term of four years.~~ 26769

**Sec. 3332.04.** The state board of career colleges and schools 26770  
may appoint an executive director and such other staff as may be 26771  
required for the performance of the board's duties and provide 26772  
necessary facilities. In selecting an executive director, the 26773  
board shall appoint an individual with a background or experience 26774  
in the regulation of commerce, business, or education. The board 26775  
may also arrange for services and facilities to be provided by the 26776  
state board of education and the Ohio board of regents. All 26777  
receipts of the board shall be deposited in the state treasury to 26778  
the credit of the ~~general revenue~~ occupational licensing and 26779  
regulatory fund. 26780

**Sec. 3333.12.** (A) As used in this section: 26781

(1) "Eligible student" means an undergraduate student who is: 26782

(a) An Ohio resident; 26783

(b) Enrolled in either of the following: 26784

(i) An accredited institution of higher education in this 26785  
state that meets the requirements of Title VI of the Civil Rights 26786  
Act of 1964 and is state-assisted, is nonprofit and has a 26787  
certificate of authorization from the Ohio board of regents 26788  
pursuant to Chapter 1713. of the Revised Code, has a certificate 26789  
of registration from the state board of career colleges and 26790  
schools and program authorization to award an associate or 26791  
bachelor's degree, or is a private institution exempt from 26792  
regulation under Chapter 3332. of the Revised Code as prescribed 26793  
in section 3333.046 of the Revised Code. Students who attend an 26794  
institution that holds a certificate of registration shall be 26795  
enrolled in a program leading to an associate or bachelor's degree 26796  
for which associate or bachelor's degree program the institution 26797  
has program authorization issued under section 3332.05 of the 26798  
Revised Code. 26799



(ii) A technical education program of at least two years 26800  
duration sponsored by a private institution of higher education in 26801  
this state that meets the requirements of Title VI of the Civil 26802  
Rights Act of 1964. 26803

(c) Enrolled as a full-time student or enrolled as a less 26804  
than full-time student for the term expected to be the student's 26805  
final term of enrollment and is enrolled for the number of credit 26806  
hours necessary to complete the requirements of the program in 26807  
which the student is enrolled. 26808

(2) "Gross income" includes all taxable and nontaxable income 26809  
of the parents, the student, and the student's spouse, except 26810  
income derived from an Ohio academic scholarship, income earned by 26811  
the student between the last day of the spring term and the first 26812  
day of the fall term, and other income exclusions designated by 26813  
the board. Gross income may be verified to the board by the 26814  
institution in which the student is enrolled using the federal 26815  
financial aid eligibility verification process or by other means 26816  
satisfactory to the board. 26817

(3) "Resident," "full-time student," "dependent," 26818  
"financially independent," and "accredited" shall be defined by 26819  
rules adopted by the board. 26820

(B) The Ohio board of regents shall establish and administer 26821  
an instructional grant program and may adopt rules to carry out 26822  
this section. The general assembly shall support the instructional 26823  
grant program by such sums and in such manner as it may provide, 26824  
but the board may also receive funds from other sources to support 26825  
the program. If the amounts available for support of the program 26826  
are inadequate to provide grants to all eligible students, 26827  
preference in the payment of grants shall be given in terms of 26828  
income, beginning with the lowest income category of gross income 26829  
and proceeding upward by category to the highest gross income 26830

category. 26831

An instructional grant shall be paid to an eligible student 26832  
through the institution in which the student is enrolled, except 26833  
that no instructional grant shall be paid to any person serving a 26834  
term of imprisonment. Applications for such grants shall be made 26835  
as prescribed by the board, and such applications may be made in 26836  
conjunction with and upon the basis of information provided in 26837  
conjunction with student assistance programs funded by agencies of 26838  
the United States government or from financial resources of the 26839  
institution of higher education. The institution shall certify 26840  
that the student applicant meets the requirements set forth in 26841  
divisions (A)(1)(b) and (c) of this section. Instructional grants 26842  
shall be provided to an eligible student only as long as the 26843  
student is making appropriate progress toward a nursing diploma or 26844  
an associate or bachelor's degree. No student shall be eligible to 26845  
receive a grant for more than ten semesters, fifteen quarters, or 26846  
the equivalent of five academic years. A grant made to an eligible 26847  
student on the basis of less than full-time enrollment shall be 26848  
based on the number of credit hours for which the student is 26849  
enrolled and shall be computed in accordance with a formula 26850  
adopted by the board. No student shall receive more than one grant 26851  
on the basis of less than full-time enrollment. 26852

An instructional grant shall not exceed the total 26853  
instructional and general charges of the institution. 26854

(C) The tables in this division prescribe the maximum grant 26855  
amounts covering two semesters, three quarters, or a comparable 26856  
portion of one academic year. Grant amounts for additional terms 26857  
in the same academic year shall be determined under division (D) 26858  
of this section. 26859

For a full-time student who is a dependent and enrolled in a 26860  
nonprofit educational institution that is not a state-assisted 26861  
institution and that has a certificate of authorization issued 26862

pursuant to Chapter 1713. of the Revised Code, the amount of the 26863  
 instructional grant for two semesters, three quarters, or a 26864  
 comparable portion of the academic year shall be determined in 26865  
 accordance with the following table: 26866

Private Institution 26867  
 26868

Table of Grants 26869

Maximum Grant \$5,466 26870

Gross Income

Number of Dependents 26871

	1	2	3	4	5 or more	
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	26872 26873
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466	26874
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466	26875
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466	26876
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466	26877
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920	26878
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362	26879
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828	26880
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288	26881
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736	26882
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178	26883
\$33,001 - \$34,000	888	984	1,080	1,344	1,626	26884
\$34,001 - \$35,000	444	888	984	1,080	1,344	26885
\$35,001 - \$36,000	--	444	888	984	1,080	26886
\$36,001 - \$37,000	--	--	444	888	984	26887
\$37,001 - \$38,000	--	--	--	444	888	26888
\$38,001 - \$39,000	--	--	--	--	444	26889

For a full-time student who is financially independent and 26890  
 enrolled in a nonprofit educational institution that is not a 26891  
 state-assisted institution and that has a certificate of 26892  
 authorization issued pursuant to Chapter 1713. of the Revised 26893  
 Code, the amount of the instructional grant for two semesters, 26894

three quarters, or a comparable portion of the academic year shall 26895  
be determined in accordance with the following table: 26896

Private Institution							26897
Table of Grants							26898
Maximum Grant \$5,466							26899
Gross Income	Number of Dependents						26900
	0	1	2	3	4	5 or more	26901
\$0 - \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	26902
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	26903
\$5,301 - \$5,800	4,362	<del>4,920</del>	5,466	5,466	5,466	5,466	26904
		<u>5,196</u>					26905
\$5,801 - \$6,300	3,828	<del>4,362</del>	<del>4,920</del>	5,466	5,466	5,466	26906
		<u>4,914</u>	<u>5,196</u>				26907
\$6,301 - \$6,800	3,288	<del>3,828</del>	<del>4,362</del>	<del>4,920</del>	5,466	5,466	26908
		<u>4,650</u>	<u>4,914</u>	<u>5,196</u>			26909
\$6,801 - \$7,300	2,736	<del>3,288</del>	<del>3,828</del>	<del>4,362</del>	<del>4,920</del>	5,466	26910
		<u>4,380</u>	<u>4,650</u>	<u>4,914</u>	<u>5,196</u>		26911
\$7,301 - \$8,300	2,178	<del>2,736</del>	<del>3,288</del>	<del>3,828</del>	<del>4,362</del>	<del>4,920</del>	26912
		<u>4,104</u>	<u>4,380</u>	<u>4,650</u>	<u>4,914</u>	<u>5,196</u>	26913
\$8,301 - \$9,300	1,626	<del>2,178</del>	<del>2,736</del>	<del>3,288</del>	<del>3,828</del>	<del>4,362</del>	26914
		<u>3,822</u>	<u>4,104</u>	<u>4,380</u>	<u>4,650</u>	<u>4,914</u>	26915
\$9,301 - \$10,300	1,344	<del>1,626</del>	<del>2,178</del>	<del>2,736</del>	<del>3,288</del>	<del>3,828</del>	26916
		<u>3,546</u>	<u>3,822</u>	<u>4,104</u>	<u>4,380</u>	<u>4,650</u>	26917
\$10,301 - \$11,800	1,080	<del>1,344</del>	<del>1,626</del>	<del>2,178</del>	<del>2,736</del>	<del>3,288</del>	26918
		<u>3,408</u>	<u>3,546</u>	<u>3,822</u>	<u>4,104</u>	<u>4,380</u>	26919
\$11,801 - \$13,300	984	<del>1,080</del>	<del>1,344</del>	<del>1,626</del>	<del>2,178</del>	<del>2,736</del>	26920
		<u>3,276</u>	<u>3,408</u>	<u>3,546</u>	<u>3,822</u>	<u>4,104</u>	26921
\$13,301 - \$14,800	888	984	<del>1,080</del>	<del>1,344</del>	<del>1,626</del>	<del>2,178</del>	26922
		<u>3,228</u>	<u>3,276</u>	<u>3,408</u>	<u>3,546</u>	<u>3,822</u>	26923
\$14,801 - \$16,300	444	888	984	<del>1,080</del>	<del>1,344</del>	<del>1,626</del>	26924
		<u>2,904</u>	<u>3,228</u>	<u>3,276</u>	<u>3,408</u>	<u>3,546</u>	26925

\$16,301 - \$19,300	--	444	888	984	<del>1,080</del>	<del>1,344</del>	26927
		<u>2,136</u>	<u>2,628</u>	<u>2,952</u>	<u>3,276</u>	<u>3,408</u>	26928
\$19,301 - \$22,300	--	—	444	888	984	<del>1,080</del>	26929
		<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	<u>2,676</u>	<u>3,000</u>	26930
\$22,301 - \$25,300	--	—	—	444	888	984	26931
		<u>1,092</u>	<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	<u>2,676</u>	26932
\$25,301 - \$30,300	--	—	—	—	444	888	26933
		<u>816</u>	<u>1,092</u>	<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	26934
\$30,301 - \$35,300	--	—	—	—	—	444	26935
		<u>492</u>	<u>540</u>	<u>672</u>	<u>816</u>	<u>1,314</u>	26936

For a full-time student who is a dependent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Career Institution		Table of Grants					
		Maximum Grant \$4,632					
Gross Income	Number of Dependents						
	1	2	3	4	5 or more		
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	26950	
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632	26951	
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632	26952	
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632	26953	
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632	26954	
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182	26955	
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684	26956	
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222	26957	
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790	26958	

\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292	26959
\$32,001 - \$33,000	852	906	1,134	1,416	1,854	26960
\$33,001 - \$34,000	750	852	906	1,134	1,416	26961
\$34,001 - \$35,000	372	750	852	906	1,134	26962
\$35,001 - \$36,000	--	372	750	852	906	26963
\$36,001 - \$37,000	--	--	372	750	852	26964
\$37,001 - \$38,000	--	--	--	372	750	26965
\$38,001 - \$39,000	--	--	--	--	372	26966

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							26975
Table of Grants							26976
Maximum Grant \$4,632							26977
Gross Income	Number of Dependents						26978
	0	1	2	3	4	5 or more	26979
\$0 - \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	26980
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632	26981
\$5,301 - \$5,800	3,684	<del>4,182</del> 4,410	4,632	4,632	4,632	4,632	26982
\$5,801 - \$6,300	3,222	<del>3,684</del> 4,158	<del>4,182</del> 4,410	4,632	4,632	4,632	26984
\$6,301 - \$6,800	2,790	<del>3,222</del> 3,930	<del>3,684</del> 4,158	<del>4,182</del> 4,410	4,632	4,632	26986
\$6,801 - \$7,300	2,292	<del>2,790</del> 3,714	<del>3,222</del> 3,930	<del>3,684</del> 4,158	<del>4,182</del> 4,410	4,632	26988
\$7,301 - \$8,300	1,854	<del>2,292</del>	<del>2,790</del>	<del>3,222</del>	<del>3,684</del>	<del>4,182</del>	26990

		<u>3,462</u>	<u>3,714</u>	<u>3,930</u>	<u>4,158</u>	<u>4,410</u>	26991
\$8,301 - \$9,300	1,416	<del>1,854</del>	<del>2,292</del>	<del>2,790</del>	<del>3,222</del>	<del>3,684</del>	26992
		<u>3,246</u>	<u>3,462</u>	<u>3,714</u>	<u>3,930</u>	<u>4,158</u>	26993
\$9,301 - \$10,300	1,134	<del>1,416</del>	<del>1,854</del>	<del>2,292</del>	<del>2,790</del>	<del>3,222</del>	26994
		<u>3,024</u>	<u>3,246</u>	<u>3,462</u>	<u>3,714</u>	<u>3,930</u>	26995
\$10,301 - \$11,800	906	<del>1,134</del>	<del>1,416</del>	<del>1,854</del>	<del>2,292</del>	<del>2,790</del>	26996
		<u>2,886</u>	<u>3,024</u>	<u>3,246</u>	<u>3,462</u>	<u>3,714</u>	26997
\$11,801 - \$13,300	852	906	<del>1,134</del>	<del>1,416</del>	<del>1,854</del>	<del>2,292</del>	26998
		<u>2,772</u>	<u>2,886</u>	<u>3,024</u>	<u>3,246</u>	<u>3,462</u>	26999
\$13,301 - \$14,800	750	852	906	<del>1,134</del>	<del>1,416</del>	<del>1,854</del>	27000
		<u>2,742</u>	<u>2,772</u>	<u>2,886</u>	<u>3,024</u>	<u>3,246</u>	27001
\$14,801 - \$16,300	372	750	852	906	<del>1,134</del>	<del>1,416</del>	27002
		<u>2,466</u>	<u>2,742</u>	<u>2,772</u>	<u>2,886</u>	<u>3,024</u>	27003
\$16,301 - \$19,300	--	372	750	852	906	<del>1,134</del>	27004
		<u>1,800</u>	<u>2,220</u>	<u>2,520</u>	<u>2,772</u>	<u>2,886</u>	27005
\$19,301 - \$22,300	--	—	372	750	852	906	27006
		<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	<u>2,268</u>	<u>2,544</u>	27007
\$22,301 - \$25,300	--	—	—	372	750	852	27008
		<u>930</u>	<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	<u>2,268</u>	27009
\$25,301 - \$30,300	--	—	—	—	372	750	27010
		<u>708</u>	<u>930</u>	<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	27011
\$30,301 - \$35,300	--	—	—	—	—	372	27012
		<u>426</u>	<u>456</u>	<u>570</u>	<u>708</u>	<u>1,116</u>	27013

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	27014
	Table of Grants	27015
	Maximum Grant \$2,190	27016
Gross Income	Number of Dependents	27017
	1                      2                      3                      4                      5 or	27018
		27019
		27020
		27021
		27022
		27023

						more	
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	27024
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190	2,190	27025
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190	2,190	27026
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190	2,190	27027
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190	2,190	27028
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	1,974	27029
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	1,740	27030
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	1,542	27031
\$28,001 - \$31,000	522	648	864	1,080	1,320	1,320	27032
\$31,001 - \$32,000	420	522	648	864	1,080	1,080	27033
\$32,001 - \$33,000	384	420	522	648	864	864	27034
\$33,001 - \$34,000	354	384	420	522	648	648	27035
\$34,001 - \$35,000	174	354	384	420	522	522	27036
\$35,001 - \$36,000	--	174	354	384	420	420	27037
\$36,001 - \$37,000	--	--	174	354	384	384	27038
\$37,001 - \$38,000	--	--	--	174	354	354	27039
\$38,001 - \$39,000	--	--	--	--	174	174	27040

For a full-time student who is financially independent and 27041  
 enrolled in a state-assisted educational institution, the amount 27042  
 of the instructional grant for two semesters, three quarters, or a 27043  
 comparable portion of the academic year shall be determined in 27044  
 accordance with the following table: 27045

Public Institution 27046

Table of Grants 27047

Maximum Grant \$2,190 27048

Gross Income Number of Dependents 27049

0 1 2 3 4 5 or 27050

more

\$0 - \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	27051
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	27052
\$5,301 - \$5,800	1,740	<del>1,974</del>	2,190	2,190	2,190	2,190	27053
		<u>2,082</u>					27054



\$5,801 - \$6,300	1,542	<del>1,740</del>	<del>1,974</del>	2,190	2,190	2,190	27055
		<u>1,968</u>	<u>2,082</u>				27056
\$6,301 - \$6,800	1,320	<del>1,542</del>	<del>1,740</del>	<del>1,974</del>	2,190	2,190	27057
		<u>1,866</u>	<u>1,968</u>	<u>2,082</u>			27058
\$6,801 - \$7,300	1,080	<del>1,320</del>	<del>1,542</del>	<del>1,740</del>	<del>1,974</del>	2,190	27059
		<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	<u>2,082</u>		27060
\$7,301 - \$8,300	864	<del>1,080</del>	<del>1,320</del>	<del>1,542</del>	<del>1,740</del>	<del>1,974</del>	27061
		<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	<u>2,082</u>	27062
\$8,301 - \$9,300	648	<del>864</del>	<del>1,080</del>	<del>1,320</del>	<del>1,542</del>	<del>1,740</del>	27063
		<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	<u>1,968</u>	27064
\$9,301 - \$10,300	522	<del>648</del>	<del>864</del>	<del>1,080</del>	<del>1,320</del>	<del>1,542</del>	27065
		<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	<u>1,866</u>	27066
\$10,301 - \$11,800	420	<del>522</del>	<del>648</del>	<del>864</del>	<del>1,080</del>	<del>1,320</del>	27067
		<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	<u>1,758</u>	27068
\$11,801 - \$13,300	384	<del>420</del>	<del>522</del>	<del>648</del>	<del>864</del>	<del>1,080</del>	27069
		<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	<u>1,638</u>	27070
\$13,301 - \$14,800	354	<del>384</del>	<del>420</del>	<del>522</del>	<del>648</del>	<del>864</del>	27071
		<u>1,290</u>	<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	<u>1,530</u>	27072
\$14,801 - \$16,300	174	<del>354</del>	<del>384</del>	<del>420</del>	<del>522</del>	<del>648</del>	27073
		<u>1,164</u>	<u>1,290</u>	<u>1,308</u>	<u>1,356</u>	<u>1,422</u>	27074
\$16,301 - \$19,300	--	<del>174</del>	<del>354</del>	<del>384</del>	<del>420</del>	<del>522</del>	27075
		<u>858</u>	<u>1,050</u>	<u>1,182</u>	<u>1,308</u>	<u>1,356</u>	27076
\$19,301 - \$22,300	--	<del>—</del>	<del>174</del>	<del>354</del>	<del>384</del>	<del>420</del>	27077
		<u>540</u>	<u>750</u>	<u>948</u>	<u>1,062</u>	<u>1,200</u>	27078
\$22,301 - \$25,300	--	<del>—</del>	<del>—</del>	<del>174</del>	<del>354</del>	<del>384</del>	27079
		<u>432</u>	<u>540</u>	<u>750</u>	<u>948</u>	<u>1,062</u>	27080
\$25,301 - \$30,300	--	<del>—</del>	<del>—</del>	<del>—</del>	<del>174</del>	<del>354</del>	27081
		<u>324</u>	<u>432</u>	<u>540</u>	<u>750</u>	<u>948</u>	27082
\$30,301 - \$35,300	--	<del>—</del>	<del>—</del>	<del>—</del>	<del>—</del>	<del>174</del>	27083
		<u>192</u>	<u>210</u>	<u>264</u>	<u>324</u>	<u>522</u>	27084

(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

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(C) of this section, the maximum grant amount shall be a 27088  
percentage of the maximum prescribed in the applicable table of 27089  
that division. The maximum grant for a fourth quarter shall be 27090  
one-third of the maximum amount prescribed under that division. 27091  
The maximum grant for a third semester shall be one-half of the 27092  
maximum amount prescribed under that division. 27093

(E) No grant shall be made to any student in a course of 27094  
study in theology, religion, or other field of preparation for a 27095  
religious profession unless such course of study leads to an 27096  
accredited bachelor of arts, bachelor of science, associate of 27097  
arts, or associate of science degree. 27098

(F)(1) Except as provided in division (F)(2) of this section, 27099  
no grant shall be made to any student for enrollment during a 27100  
fiscal year in an institution with a cohort default rate 27101  
determined by the United States secretary of education pursuant to 27102  
the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 27103  
20 U.S.C.A. 1085, as amended, as of the fifteenth day of June 27104  
preceding the fiscal year, equal to or greater than thirty per 27105  
cent for each of the preceding two fiscal years. 27106

(2) Division (F)(1) of this section does not apply to the 27107  
following: 27108

(a) Any student enrolled in an institution that under the 27109  
federal law appeals its loss of eligibility for federal financial 27110  
aid and the United States secretary of education determines its 27111  
cohort default rate after recalculation is lower than the rate 27112  
specified in division (F)(1) of this section or the secretary 27113  
determines due to mitigating circumstances the institution may 27114  
continue to participate in federal financial aid programs. The 27115  
board shall adopt rules requiring institutions to provide 27116  
information regarding an appeal to the board. 27117

(b) Any student who has previously received a grant under 27118

this section who meets all other requirements of this section. 27119

(3) The board shall adopt rules for the notification of all 27120  
institutions whose students will be ineligible to participate in 27121  
the grant program pursuant to division (F)(1) of this section. 27122

(4) A student's attendance at an institution whose students 27123  
lose eligibility for grants under division (F)(1) of this section 27124  
shall not affect that student's eligibility to receive a grant 27125  
when enrolled in another institution. 27126

(G) Institutions of higher education that enroll students 27127  
receiving instructional grants under this section shall report to 27128  
the board all students who have received instructional grants but 27129  
are no longer eligible for all or part of such grants and shall 27130  
refund any moneys due the state within thirty days after the 27131  
beginning of the quarter or term immediately following the quarter 27132  
or term in which the student was no longer eligible to receive all 27133  
or part of the student's grant. There shall be an interest charge 27134  
of one per cent per month on all moneys due and payable after such 27135  
thirty-day period. The board shall immediately notify the office 27136  
of budget and management and the legislative service commission of 27137  
all refunds so received. 27138

Sec. 3333.16. As used in this section "state institution of 27139  
higher education" means an institution of higher education as 27140  
defined in section 3345.12 of the Revised Code. 27141

(A) By April 15, 2005, the Ohio board of regents shall do all 27142  
of the following: 27143

(1) Establish policies and procedures applicable to all state 27144  
institutions of higher education that ensure that students can 27145  
begin higher education at any state institution of higher 27146  
education and transfer coursework and degrees to any other state 27147  
institution of higher education without unnecessary duplication or 27148

institutional barriers. The purpose of this requirement is to 27149  
allow students to attain their highest educational aspirations in 27150  
the most efficient and effective manner for the students and the 27151  
state. These policies and procedures shall require state 27152  
institutions of higher education to make changes or modifications, 27153  
as needed, to strengthen course content so as to ensure 27154  
equivalency for that course at any state institution of higher 27155  
education. 27156

(2) Develop and implement a universal course equivalency 27157  
classification system for state institutions of higher education 27158  
so that the transfer of students and the transfer and articulation 27159  
of equivalent courses or specified learning modules or units 27160  
completed by students are not inhibited by inconsistent judgment 27161  
about the application of transfer credits. Coursework completed 27162  
within such a system at one state institution of higher education 27163  
and transferred to another institution shall be applied to the 27164  
student's degree objective in the same manner as equivalent 27165  
coursework completed at the receiving institution. 27166

(3) Develop a system of transfer policies that ensure that 27167  
graduates with associate degrees which include completion of 27168  
approved transfer modules shall be admitted to a state institution 27169  
of higher education baccalaureate program, except specific limited 27170  
access programs or majors that have admission requirements other 27171  
than academic performance, and shall have priority over 27172  
out-of-state associate degree graduates and transfer students. To 27173  
assist a student in advising and transferring, all state 27174  
institutions of higher education shall fully implement the course 27175  
applicability system. 27176

(4) Examine the feasibility of developing a transfer 27177  
marketing agenda that includes materials and interactive 27178  
technology to inform the citizens of Ohio about the availability 27179  
of transfer options at state institutions of higher education and 27180

to encourage adults to return to colleges and universities for additional education. 27181  
27182

(B) By April 15, 2004, the board shall report to the general assembly on its progress in attaining completion of the actions prescribed in division (A) of this section. 27183  
27184  
27185

(C) All provisions of the existing articulation and transfer policy developed by the board shall remain in effect except where amended by this act. 27186  
27187  
27188

**Sec. 3333.38.** (A) As used in this section: 27189

(1) "Institution of higher education" includes all of the following: 27190  
27191

(a) A state institution of higher education, as defined in section 3345.011 of the Revised Code; 27192  
27193

(b) A nonprofit institution issued a certificate of authorization by the Ohio board of regents under Chapter 1713. of the Revised Code; 27194  
27195  
27196

(c) A private institution exempt from regulation under Chapter 3332. of the Revised Code, as prescribed in section 3333.046 of the Revised Code; 27197  
27198  
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(d) An institution of higher education with a certificate of registration from the state board of career colleges and schools under Chapter 3332. of the Revised Code. 27200  
27201  
27202

(2) "Student financial assistance supported by state funds" includes assistance granted under sections 3315.33, 3333.12, 3333.22, 3333.26, 3333.27, 3333.28, 3333.29, 3333.372, 5910.03, 5910.032, and 5919.34 of the Revised Code and any other post-secondary student financial assistance supported by state funds. 27203  
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(B) An individual who commits an offense listed in this 27209

division while enrolled in an institution of higher education 27210  
shall be ineligible to receive any student financial assistance 27211  
supported by state funds, as provided in division (C) of this 27212  
section, if the individual is convicted of, pleads guilty to, or 27213  
is adjudicated a delinquent child for one of the following 27214  
offenses: 27215

(1) A violation of section 2917.02 or 2917.03 of the Revised 27216  
Code; 27217

(2) A violation of section 2917.04 of the Revised Code that 27218  
is a misdemeanor of the fourth degree and occurs within the 27219  
proximate area where four or more others are acting in a course of 27220  
conduct in violation of section 2917.11 of the Revised Code; 27221

(3) A violation of section 2917.13 of the Revised Code that 27222  
is a misdemeanor of the fourth or first degree and occurs within 27223  
the proximate area where four or more others are acting in a 27224  
course of conduct in violation of section 2917.11 of the Revised 27225  
Code. 27226

(C) An individual who pleads guilty to, is convicted of, or 27227  
is adjudicated a delinquent child for a violation included in 27228  
division (B) of this section shall be permanently ineligible to 27229  
receive any student financial assistance supported by state funds. 27230

**Sec. 3353.11.** There is hereby created in the state treasury 27231  
the governmental television/telecommunications operating fund. The 27232  
fund shall consist of money received from contract productions of 27233  
the Ohio government telecommunications studio and shall be used 27234  
for operations or equipment breakdowns related to the studio. Only 27235  
Ohio government telecommunications may authorize the spending of 27236  
money in the fund. All investment earnings of the fund shall be 27237  
credited to the fund. Once the fund has a balance of zero, the 27238  
fund shall cease to exist. 27239

Sec. 3361.01. (A) There is hereby created a state university 27240  
to be known as the "university of Cincinnati." The government of 27241  
the university of Cincinnati is vested in a board of eleven 27242  
trustees who shall be appointed by the governor with the advice 27243  
and consent of the senate. Two of the trustees shall be students 27244  
at the university of Cincinnati, and their selection and terms 27245  
shall be in accordance with division (B) of this section. The 27246  
terms of the first nine members of the board of trustees shall 27247  
commence upon the effective date of the transfer of assets of the 27248  
state-affiliated university of Cincinnati to the university of 27249  
Cincinnati hereby created. One of such trustees shall be appointed 27250  
for a term ending on the first day of January occurring at least 27251  
twelve months after such date of transfer, and each of the other 27252  
trustees shall be appointed for respective terms ending on each 27253  
succeeding first day of January, so that one term will expire on 27254  
each first day of January after expiration of the shortest term. 27255  
Except for the two student trustees, each successor trustee shall 27256  
be appointed for a term ending on the first day of January, nine 27257  
years from the expiration date of the term ~~he~~ the trustee 27258  
succeeds, except that any person appointed to fill a vacancy shall 27259  
be appointed to serve only for the unexpired term. 27260

Any trustee shall continue in office subsequent to the 27261  
expiration date of ~~his~~ the trustee's term until ~~his~~ the trustee's 27262  
successor takes office, or until a period of sixty days has 27263  
elapsed, whichever occurs first. 27264

No person who has served a full nine-year term or longer or 27265  
more than six years of such a term shall be eligible to 27266  
reappointment. ~~No person is eligible for appointment to the board~~ 27267  
~~of trustees for a full nine year term who is not at the time of~~ 27268  
~~appointment a resident of the city of Cincinnati, unless at the~~ 27269  
~~time of such appointment there are at least five members of the~~ 27270

~~board who are not students and who are residents of the city of Cincinnati.~~ 27271  
27272

The trustees shall receive no compensation for their services 27273  
but shall be paid their reasonable necessary expenses while 27274  
engaged in the discharge of their official duties. A majority of 27275  
the board constitutes a quorum. 27276

(B) The student members of the board of trustees of the 27277  
university of Cincinnati have no voting power on the board. 27278  
Student members shall not be considered as members of the board in 27279  
determining whether a quorum is present. Student members shall not 27280  
be entitled to attend executive sessions of the board. The student 27281  
members of the board shall be appointed by the governor, with the 27282  
advice and consent of the senate, from a group of five candidates 27283  
selected pursuant to a procedure adopted by the university's 27284  
student governments and approved by the university's board of 27285  
trustees. The initial term of office of one of the student members 27286  
shall commence on May 14, 1988 and shall expire on May 13, 1989, 27287  
and the initial term of office of the other student member shall 27288  
commence on May 14, 1988 and expire on May 13, 1990. Thereafter, 27289  
terms of office of student members shall be for two years, each 27290  
term ending on the same day of the same month of the year as the 27291  
term it succeeds. In the event that a student cannot fulfill ~~his~~ a 27292  
two-year term, a replacement shall be selected to fill the 27293  
unexpired term in the same manner used to make the original 27294  
selection. 27295

"**Sec. 3375.41.** When a board of library trustees appointed 27296  
pursuant to sections 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, 27297  
and 3375.30 of the Revised Code determines to construct, demolish, 27298  
alter, repair, or reconstruct a library or make any improvements 27299  
or repairs, the cost of which will exceed ~~fifteen~~ twenty-five 27300  
thousand dollars, except in cases of urgent necessity or for the 27301



security and protection of library property, it shall proceed as follows: 27302  
27303

(A) The board shall advertise for a period of four weeks for bids in some newspaper of general circulation in the district, and if there are two such papers, the board shall advertise in both of them. If no newspaper has a general circulation in the district, the board shall advertise by posting ~~such the~~ advertisement in three public places ~~therein in the district. Such The~~ advertisement shall be entered in full by the clerk on the record of proceedings of the board. 27304  
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(B) The sealed bids shall be filed with the clerk by twelve noon of the last day stated in the advertisement. 27312  
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(C) The bids shall be opened at the next meeting of the board, shall be publicly read by the clerk, and shall be entered in full on the records of the board; provided, that the board ~~may,~~ by resolution, may provide for the public opening and reading of ~~such the~~ bids by the clerk, immediately after the time for filing ~~such the~~ bids has expired, at the usual place of meeting of the board, and for the tabulation of ~~such the~~ bids and a report of ~~such the~~ tabulation to the board at its next meeting. 27314  
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(D) Each bid shall contain the name of every person interested ~~therein, in it~~ and shall meet the requirements of section 153.54 of the Revised Code. 27322  
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(E) When both labor and materials are embraced in the work bid for, the board may require that each be separately stated in the bid, with the price ~~thereof of each~~, or may require that bids be submitted without ~~such that~~ separation. 27325  
27326  
27327  
27328

(F) None but the lowest responsible bid shall be accepted. The board may reject all the bids or accept any bid for both labor and material for ~~such the~~ improvement or repair which is the lowest in the aggregate. 27329  
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27331  
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(G) The contract shall be between the board and the bidders. 27333  
The board shall pay the contract price for the work in cash at the 27334  
times and in the amounts as provided by sections 153.12, 153.13, 27335  
and 153.14 of the Revised Code. 27336

(H) When two or more bids are equal, in whole or in part, and 27337  
are lower than any others, either may be accepted, but in no case 27338  
shall the work be divided between such bidders. 27339

(I) When there is reason to believe there is collusion or 27340  
combination among the bidders, the bids of those concerned in ~~such~~ 27341  
the collusion or combination shall be rejected. 27342

**Sec. 3377.01.** As used in Chapter 3377. of the Revised Code: 27343

(A) "Educational institution" or "institution" means an 27344  
educational institution organized not for profit and holding an 27345  
effective certificate of authorization issued under section 27346  
1713.02 of the Revised Code. It does not include any institution 27347  
created by or in accordance with Title XXXIII of the Revised Code 27348  
nor any institution whose principal educational activity is 27349  
preparing students for or granting degrees, diplomas, and other 27350  
marks of deficiency which have value only in religious and 27351  
ecclesiastical fields. 27352

(B) "Educational facility" or "facility" means any building, 27353  
structure, facility, equipment, machinery, utility, or 27354  
improvement, site, or other interest in real estate therefor or 27355  
pertinent thereto, and equipment and furnishings to be used 27356  
therein or in connection therewith, together with any 27357  
appurtenances necessary or convenient to the uses thereof, to be 27358  
used for or in connection with the conduct or operation of an 27359  
educational institution, including but not limited to, classrooms 27360  
and other instructional facilities, laboratories, research 27361  
facilities, libraries, study facilities, administrative and office 27362

facilities, museums, gymnasiums, campus walks, drives and site 27363  
improvements, dormitories and other suitable living quarters or 27364  
accommodations, dining halls and other food service and 27365  
preparation facilities, student services or activity facilities, 27366  
physical education, athletic and recreational facilities, 27367  
theatres, auditoriums, assembly and exhibition halls, greenhouses, 27368  
agricultural buildings and facilities, parking, storage and 27369  
maintenance facilities, infirmary, hospital, medical, and health 27370  
facilities, continuing education facilities, communications, fire 27371  
prevention, and fire fighting facilities, and any one, or any 27372  
combination of the foregoing, whether or not comprising part of 27373  
one building, structure, or facility. It does not include any 27374  
facility used ~~for sectarian instruction or study or~~ exclusively as 27375  
a place for devotional activities ~~or religious worship~~. 27376

(C) "Bond proceedings" means the resolution or resolutions, 27377  
the trust agreement, the indenture of mortgage, or combination 27378  
thereof authorizing or providing for the terms and conditions 27379  
applicable to bonds issued under authority of Chapter 3377. of the 27380  
Revised Code. 27381

(D) "Pledged facilities" means the project or other property 27382  
that is mortgaged or the rentals, revenues, and other income, 27383  
charges, and moneys from which are pledged, or both, for the 27384  
payment of or the security for the payment of the principal of and 27385  
interest on the bonds issued under the authority of section 27386  
3377.05 or 3377.06 of the Revised Code. 27387

(E) "Project" means real or personal property, or both, 27388  
acquired by gift or purchase, constructed, reconstructed, 27389  
enlarged, remodeled, renovated, improved, furnished, or equipped, 27390  
or any combination thereof, by or financed by the Ohio higher 27391  
educational facility commission, or by funds that are refinanced 27392  
or reimbursed by the commission for use by an educational 27393  
institution as an educational facility located within the state. 27394

(F) "Project costs" means the costs of acquiring, 27395  
constructing, equipping, furnishing, reconstructing, remodeling, 27396  
renovating, enlarging, and improving educational facilities 27397  
comprising one or more project, including costs connected with or 27398  
incidental thereto, provision of capitalized interest prior to and 27399  
during construction and for a period after the completion of the 27400  
construction, appropriate reserves, architectural, engineering, 27401  
financial, and legal services, and all other costs of financing, 27402  
and the repayment or restoration of moneys borrowed or advanced 27403  
for such purposes or temporarily used therefor from other sources, 27404  
and means the costs of refinancing obligations issued or loans 27405  
incurred by, or reimbursement of money advanced, invested or 27406  
expended by, educational institutions or others the proceeds of 27407  
which obligations or loans or the amounts advanced, invested or 27408  
expended were used at any time for the payment of project costs, 27409  
if the Ohio higher educational facility commission determines that 27410  
the refinancing or reimbursement advances the purposes of this 27411  
chapter, whether or not the refinancing or reimbursement is in 27412  
conjunction with the acquisition or construction of additional 27413  
educational facilities. 27414

**Sec. 3377.06.** In anticipation of the issuance of bonds 27415  
authorized by section 3377.05 of the Revised Code, the Ohio higher 27416  
educational facility commission may issue bond anticipation notes 27417  
of the state and may renew the same from time to time by the 27418  
issuance of new notes, but the maximum maturity of such notes, 27419  
including renewals thereof, shall not exceed five years from the 27420  
date of the issuance of the original notes. Such notes are payable 27421  
solely from the revenues and receipts that may be pledged to the 27422  
payment of such bonds or from the proceeds of such bonds, or both, 27423  
as the commission provides in its resolution authorizing such 27424  
notes, and may be additionally secured by covenants of the 27425  
commission to the effect that the commission will do such or all 27426

things necessary for the issuance of such bonds, or of renewal 27427  
notes under this section in appropriate amount, and either 27428  
exchange such bonds or renewal notes therefor or apply the 27429  
proceeds thereof to the extent necessary to make full payment on 27430  
such notes at the time or times contemplated, as provided in such 27431  
resolution. Subject to the provisions of this section, all 27432  
provisions for and references to bonds in Chapter 3377. of the 27433  
Revised Code are applicable to notes authorized under this section 27434  
and any references therein to bondholders shall include holders or 27435  
owners of such notes. 27436

Prior to the sale of bonds or notes authorized under section 27437  
3377.05 or 3377.06 of the Revised Code, the commission shall 27438  
determine that the project to be financed thereby will contribute 27439  
to the objectives stated in section 3377.02 of the Revised Code 27440  
and that the educational institution to which such project is to 27441  
be leased, sold, exchanged, or otherwise disposed of, admits 27442  
students without discrimination by reason of race, creed, color, 27443  
or national origin. Nothing in this section prohibits an 27444  
educational institution from requesting that its applicants for 27445  
admission demonstrate beliefs or principles consistent with the 27446  
mission of the institution. 27447

Sec. 3379.11. There is hereby created in the state treasury 27448  
the gifts and donations fund. The fund shall consist of gifts and 27449  
donations made to the Ohio arts council and fees paid for 27450  
conferences the council sponsors. The fund shall be used to pay 27451  
for the council's operating expenses, including, but not limited 27452  
to, payroll, personal services, maintenance, equipment, and 27453  
subsidy payments. All moneys deposited into the fund shall be 27454  
received and expended pursuant to the council's duty to foster and 27455  
encourage the development of the arts in this state and the 27456  
preservation of the state's cultural heritage. 27457

Sec. 3383.01. As used in this chapter:	27458
(A) "Arts" means any of the following:	27459
(1) Visual, musical, dramatic, graphic, design, and other arts, including, but not limited to, architecture, dance, literature, motion pictures, music, painting, photography, sculpture, and theater, and the provision of training or education in these arts;	27460 27461 27462 27463 27464
(2) The presentation or making available, in museums or other indoor or outdoor facilities, of principles of science and their development, use, or application in business, industry, or commerce or of the history, heritage, development, presentation, and uses of the arts described in division (A)(1) of this section and of transportation;	27465 27466 27467 27468 27469 27470
(3) The preservation, presentation, or making available of features of archaeological, architectural, environmental, or historical interest or significance in a state historical facility or a local historical facility.	27471 27472 27473 27474
(B) "Arts organization" means either of the following:	27475
(1) A governmental agency or Ohio nonprofit corporation that provides programs or activities in areas directly concerned with the arts;	27476 27477 27478
(2) A regional arts and cultural district as defined in section 3381.01 of the Revised Code.	27479 27480
(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.	27481 27482 27483 27484 27485
(D) "Cooperative contract" means a contract between the Ohio	27486

arts and sports facilities commission and an arts organization 27487  
providing the terms and conditions of the cooperative use of an 27488  
Ohio arts facility. 27489

(E) "Costs of operation" means amounts required to manage an 27490  
Ohio arts facility that are incurred following the completion of 27491  
construction of its arts project, provided that both of the 27492  
following apply: 27493

(1) Those amounts either: 27494

(a) Have been committed to a fund dedicated to that purpose; 27495

(b) Equal the principal of any endowment fund, the income 27496  
from which is dedicated to that purpose. 27497

(2) The commission and the arts organization have executed an 27498  
agreement with respect to either of those funds. 27499

(F) "General building services" means general building 27500  
services for an Ohio arts facility or an Ohio sports facility, 27501  
including, but not limited to, general custodial care, security, 27502  
maintenance, repair, painting, decoration, cleaning, utilities, 27503  
fire safety, grounds and site maintenance and upkeep, and 27504  
plumbing. 27505

(G) "Governmental agency" means a state agency, a 27506  
state-supported or state-assisted institution of higher education, 27507  
a municipal corporation, county, township, or school district, a 27508  
port authority created under Chapter 4582. of the Revised Code, 27509  
any other political subdivision or special district in this state 27510  
established by or pursuant to law, or any combination of these 27511  
entities; except where otherwise indicated, the United States or 27512  
any department, division, or agency of the United States, or any 27513  
agency, commission, or authority established pursuant to an 27514  
interstate compact or agreement. 27515

(H) "Local contributions" means the value of an asset 27516

provided by or on behalf of an arts organization from sources 27517  
other than the state, the value and nature of which shall be 27518  
approved by the Ohio arts and sports facilities commission, in its 27519  
sole discretion. "Local contributions" may include the value of 27520  
the site where an arts project is to be constructed. All "local 27521  
contributions," except a contribution attributable to such a site, 27522  
shall be for the costs of construction of an arts project or the 27523  
costs of operation of an arts facility. 27524

(I) "Local historical facility" means a site or facility, 27525  
other than a state historical facility, of archaeological, 27526  
architectural, environmental, or historical interest or 27527  
significance, or a facility, including a storage facility, 27528  
appurtenant to the operations of such a site or facility, that is 27529  
owned by an arts organization, provided the facility meets the 27530  
requirements of division (K)(2)(b) of this section, is managed by 27531  
or pursuant to a contract with the Ohio arts and sports facilities 27532  
commission, and is used for or in connection with the activities 27533  
of the commission, including the presentation or making available 27534  
of arts to the public. 27535

(J) "Manage," "operate," or "management" means the provision 27536  
of, or the exercise of control over the provision of, activities: 27537

(1) Relating to the arts for an Ohio arts facility, including 27538  
as applicable, but not limited to, providing for displays, 27539  
exhibitions, specimens, and models; booking of artists, 27540  
performances, or presentations; scheduling; and hiring or 27541  
contracting for directors, curators, technical and scientific 27542  
staff, ushers, stage managers, and others directly related to the 27543  
arts activities in the facility; but not including general 27544  
building services; 27545

(2) Relating to sports and athletic events for an Ohio sports 27546  
facility, including as applicable, but not limited to, providing 27547  
for booking of athletes, teams, and events; scheduling; and hiring 27548



or contracting for staff, ushers, managers, and others directly 27549  
related to the sports and athletic events in the facility; but not 27550  
including general building services. 27551

(K) "Ohio arts facility" means any of the following: 27552

(1) The three theaters located in the state office tower at 27553  
77 South High street in Columbus; 27554

(2) Any capital facility in this state to which both of the 27555  
following apply: 27556

(a) The construction of an arts project related to the 27557  
facility was authorized or funded by the general assembly pursuant 27558  
to division (D)(3) of section 3383.07 of the Revised Code and 27559  
proceeds of state bonds are used for costs of the arts project. 27560

(b) The facility is managed directly by, or is subject to a 27561  
cooperative or management contract with, the Ohio arts and sports 27562  
facilities commission, and is used for or in connection with the 27563  
activities of the commission, including the presentation or making 27564  
available of arts to the public and the provision of training or 27565  
education in the arts. ~~A cooperative or management contract shall~~ 27566  
~~be for a term not less than the time remaining to the date of~~ 27567  
~~payment or provision for payment of any state bonds issued to pay~~ 27568  
~~the costs of the arts project, as determined by the director of~~ 27569  
~~budget and management and certified by the director to the Ohio~~ 27570  
~~arts and sports facilities commission and to the Ohio building~~ 27571  
~~authority.~~ 27572

(3) A state historical facility or a local historical 27573  
facility. 27574

(L) "State agency" means the state or any of its branches, 27575  
officers, boards, commissions, authorities, departments, 27576  
divisions, or other units or agencies. 27577

(M) "Construction" includes acquisition, including 27578

acquisition by lease-purchase, demolition, reconstruction, 27579  
alteration, renovation, remodeling, enlargement, improvement, site 27580  
improvements, and related equipping and furnishing. 27581

(N) "State historical facility" means a site or facility of 27582  
archaeological, architectural, environmental, or historical 27583  
interest or significance, or a facility, including a storage 27584  
facility, appurtenant to the operations of such a site or 27585  
facility, that is owned by or is located on real property owned by 27586  
the state or by an arts organization, so long as the real property 27587  
of the arts organization is contiguous to state-owned real 27588  
property that is in the care, custody, and control of an arts 27589  
organization, and that is managed directly by or is subject to a 27590  
cooperative or management contract with the Ohio arts and sports 27591  
facilities commission and is used for or in connection with the 27592  
activities of the commission, including the presentation or making 27593  
available of arts to the public. 27594

(O) "Ohio sports facility" means all or a portion of a 27595  
stadium, arena, or other capital facility in this state, a primary 27596  
purpose of which is to provide a site or venue for the 27597  
presentation to the public of events of one or more major or minor 27598  
league professional athletic or sports teams that are associated 27599  
with the state or with a city or region of the state, which 27600  
facility is owned by or is located on real property owned by the 27601  
state or a governmental agency, and including all parking 27602  
facilities, walkways, and other auxiliary facilities, equipment, 27603  
furnishings, and real and personal property and interests and 27604  
rights therein, that may be appropriate for or used for or in 27605  
connection with the facility or its operation, for capital costs 27606  
of which state funds are spent pursuant to this chapter. A 27607  
facility constructed as an Ohio sports facility may be both an 27608  
Ohio arts facility and an Ohio sports facility. 27609

**Sec. 3383.07.** (A) The department of administrative services 27610  
shall provide for the construction of an arts project in 27611  
conformity with Chapter 153. of the Revised Code, except as 27612  
follows: 27613

(1) For an arts project that has an estimated construction 27614  
cost, excluding the cost of acquisition, of twenty-five million 27615  
dollars or more, and that is financed by the Ohio building 27616  
authority, construction services may be provided by the authority 27617  
if the authority determines it should provide those services. 27618

(2) For an arts project other than a state historical 27619  
facility, construction services may be provided on behalf of the 27620  
state by the Ohio arts and sports facilities commission, or by a 27621  
governmental agency or an arts organization that occupies, will 27622  
occupy, or is responsible for the Ohio arts facility, as 27623  
determined by the commission. Construction services to be provided 27624  
by a governmental agency or an arts organization shall be 27625  
specified in an agreement between the commission and the 27626  
governmental agency or arts organization. The agreement, or any 27627  
actions taken under it, are not subject to Chapter 123. or 153. of 27628  
the Revised Code, except for sections 123.151 and 153.011 of the 27629  
Revised Code, and shall be subject to Chapter 4115. of the Revised 27630  
Code. 27631

(3) For an arts project that is a state historical facility, 27632  
construction services may be provided by the Ohio arts and sports 27633  
facilities commission or by an arts organization that occupies, 27634  
will occupy, or is responsible for the facility, as determined by 27635  
the commission. The construction services to be provided by the 27636  
arts organization shall be specified in an agreement between the 27637  
commission and the arts organization. That agreement, and any 27638  
actions taken under it, are not subject to Chapter 123., 153., or 27639  
4115. of the Revised Code. 27640

(B) For an Ohio sports facility that is financed in part by the Ohio building authority, construction services shall be provided on behalf of the state by or at the direction of the governmental agency or nonprofit corporation that will own or be responsible for the management of the facility, all as determined by the Ohio arts and sports facilities commission. Any construction services to be provided by a governmental agency or nonprofit corporation shall be specified in an agreement between the commission and the governmental agency or nonprofit corporation. That agreement, and any actions taken under it, are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.151 and 153.011 of the Revised Code, and shall be subject to Chapter 4115. of the Revised Code.

(C) General building services for an Ohio arts facility shall be provided by the Ohio arts and sports facilities commission or by an arts organization that occupies, will occupy, or is responsible for the facility, as determined by the commission, except that the Ohio building authority may elect to provide those services for Ohio arts facilities financed with proceeds of state bonds issued by the authority. The costs of management and general building services shall be paid by the arts organization that occupies, will occupy, or is responsible for the facility as provided in an agreement between the commission and the arts organization, except that the state may pay for general building services for state-owned arts facilities constructed on state-owned land.

General building services for an Ohio sports facility shall be provided by or at the direction of the governmental agency or nonprofit corporation that will be responsible for the management of the facility, all as determined by the commission. Any general building services to be provided by a governmental agency or nonprofit corporation for an Ohio sports facility shall be

specified in an agreement between the commission and the 27673  
governmental agency or nonprofit corporation. That agreement, and 27674  
any actions taken under it, are not subject to Chapter 123. or 27675  
153. of the Revised Code, except for sections 123.151 and 153.011 27676  
of the Revised Code, and shall be subject to Chapter 4115. of the 27677  
Revised Code. 27678

(D) This division does not apply to a state historical 27679  
facility. No state funds, including any state bond proceeds, shall 27680  
be spent on the construction of any arts project under this 27681  
chapter unless, with respect to the arts project and to the Ohio 27682  
arts facility related to the project, all of the following apply: 27683

(1) The Ohio arts and sports facilities commission has 27684  
determined that there is a need for the arts project and the Ohio 27685  
arts facility related to the project in the region of the state in 27686  
which the Ohio arts facility is located or for which the facility 27687  
is proposed. 27688

(2) The commission has determined that, as an indication of 27689  
substantial regional support for the arts project, the arts 27690  
organization has made provision satisfactory to the commission, in 27691  
its sole discretion, for local contributions amounting to not less 27692  
than fifty per cent of the total state funding for the arts 27693  
project. 27694

(3) The general assembly has specifically authorized the 27695  
spending of money on, or made an appropriation for, the 27696  
construction of the arts project, or for rental payments relating 27697  
to the financing of the construction of the arts project. 27698  
Authorization to spend money, or an appropriation, for planning 27699  
the arts project does not constitute authorization to spend money 27700  
on, or an appropriation for, construction of the arts project. 27701

(E) No state funds, including any state bond proceeds, shall 27702  
be spent on the construction of any state historical facility 27703

under this chapter unless the general assembly has specifically 27704  
authorized the spending of money on, or made an appropriation for, 27705  
the construction of the arts project related to the facility, or 27706  
for rental payments relating to the financing of the construction 27707  
of the arts project. Authorization to spend money, or an 27708  
appropriation, for planning the arts project does not constitute 27709  
authorization to spend money on, or an appropriation for, the 27710  
construction of the arts project. 27711

(F) State funds shall not be used to pay or reimburse more 27712  
than fifteen per cent of the initial estimated construction cost 27713  
of an Ohio sports facility, excluding any site acquisition cost, 27714  
and no state funds, including any state bond proceeds, shall be 27715  
spent on any Ohio sports facility under this chapter unless, with 27716  
respect to that facility, all of the following apply: 27717

(1) The Ohio arts and sports facilities commission has 27718  
determined that there is a need for the facility in the region of 27719  
the state for which the facility is proposed to provide the 27720  
function of an Ohio sports facility as provided for in this 27721  
chapter. 27722

(2) As an indication of substantial local support for the 27723  
facility, the commission has received a financial and development 27724  
plan satisfactory to it, and provision has been made, by agreement 27725  
or otherwise, satisfactory to the commission, for a contribution 27726  
amounting to not less than eighty-five per cent of the total 27727  
estimated construction cost of the facility, excluding any site 27728  
acquisition cost, from sources other than the state. 27729

(3) The general assembly has specifically authorized the 27730  
spending of money on, or made an appropriation for, the 27731  
construction of the facility, or for rental payments relating to 27732  
state financing of all or a portion of the costs of constructing 27733  
the facility. Authorization to spend money, or an appropriation, 27734  
for planning or determining the feasibility of or need for the 27735

facility does not constitute authorization to spend money on, or 27736  
an appropriation for, costs of constructing the facility. 27737

(4) If state bond proceeds are being used for the Ohio sports 27738  
facility, the state or a governmental agency owns or has 27739  
sufficient property interests in the facility or in the site of 27740  
the facility or in the portion or portions of the facility 27741  
financed from proceeds of state bonds, which may include, but is 27742  
not limited to, the right to use or to require the use of the 27743  
facility for the presentation of sport and athletic events to the 27744  
public at the facility, ~~extending for a period of not less than~~ 27745  
~~the greater of the useful life of the portion of the facility~~ 27746  
~~financed from proceeds of those bonds as determined using the~~ 27747  
~~guidelines for maximum maturities as provided under divisions (B),~~ 27748  
~~(C), and (D) of section 133.20 of the Revised Code, or the period~~ 27749  
~~of time remaining to the date of payment or provision for payment~~ 27750  
~~of outstanding state bonds allocable to costs of the facility, all~~ 27751  
~~as determined by the director of budget and management and~~ 27752  
~~certified by the director to the Ohio arts and sports facilities~~ 27753  
~~commission and to the Ohio building authority.~~ 27754

Sec. 3501.011. (A) Except as otherwise provided in divisions 27755  
(B) and (C) of this section, and except as otherwise provided in 27756  
any section of Title XXXV of the Revised Code to the contrary, as 27757  
used in the sections of the Revised Code relating to elections and 27758  
political communications, whenever a person is required to sign or 27759  
affix a signature to a declaration of candidacy, nominating 27760  
petition, declaration of intent to be a write-in candidate, 27761  
initiative petition, referendum petition, recall petition, or any 27762  
other kind of petition, or to sign or affix a signature on any 27763  
other document that is filed with or transmitted to a board of 27764  
elections or the office of the secretary of state, "sign" or 27765  
"signature" means that person's written, cursive-style legal mark 27766  
written in that person's own hand. 27767

(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.

(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.

**Sec. 3501.18.** (A) The board of elections may divide a political subdivision<sub>7</sub> within its jurisdiction<sub>7</sub> into precincts ~~and~~<sub>1</sub> establish, define, divide, rearrange, and combine the several election precincts within its jurisdiction<sub>1</sub> 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 four hundred, that the board of elections determines to be a reasonable number after taking into consideration the type and amount of available equipment, prior voter turnout, the size and location of each selected polling place, available parking,



availability of an adequate number of poll workers, and handicap 27799  
accessibility and other accessibility to the polling place. 27800

If the board changes the boundaries of a precinct after the 27801  
filing of a local option election petition pursuant to sections 27802  
4301.32 to 4301.41, 4303.29, or 4305.14 of the Revised Code that 27803  
calls for a local option election to be held in that precinct, the 27804  
local option election shall be held in the area that constituted 27805  
the precinct at the time the local option petition was filed, 27806  
regardless of the change in the boundaries. 27807

If the board changes the boundaries of a precinct in order to 27808  
meet the requirements of division (B)(1) of this section in a 27809  
manner that causes a member of a county central committee to no 27810  
longer qualify as a representative of an election precinct in the 27811  
county, of a ward of a city in the county, or of a township in the 27812  
county, the member shall continue to represent the precinct, ward, 27813  
or township for the remainder of the member's term, regardless of 27814  
the change in boundaries. 27815

In an emergency, the board may provide more than one polling 27816  
place in a precinct. In order to provide for the convenience of 27817  
the voters, the board may locate polling places for voting or 27818  
registration outside the boundaries of precincts, provided that 27819  
the nearest public school or public building shall be used if the 27820  
board determines it to be available and suitable for use as a 27821  
polling place. Except in an emergency, no change in the number or 27822  
location of the polling places in a precinct shall be made during 27823  
the twenty-five days immediately preceding a primary or general 27824  
election. 27825

Electors who have failed to respond within thirty days to any 27826  
confirmation notice shall not be counted in determining the size 27827  
of any precinct under this section. 27828

(B)(1) Except as otherwise provided in division (B)(2) ~~or (3)~~ 27829

of this section, ~~not later than August 1, 2000,~~ the a board of 27830  
elections shall determine all precinct boundaries using 27831  
geographical units used by the United States department of 27832  
commerce, bureau of the census, in reporting the decennial census 27833  
of Ohio. 27834

~~(2) When any part of the boundary of a precinct also forms a 27835  
part of the boundary of a legislative district and the precinct 27836  
boundary cannot be determined by August 1, 2000, using the 27837  
geographical units described in division (B)(1) of this section 27838  
without making that part of the precinct boundary that also forms 27839  
part of the legislative district boundary different from that 27840  
legislative district boundary, the board of elections may 27841  
determine the boundary of that precinct using the geographical 27842  
units described in division (B)(1) of this section not later than 27843  
April 1, 2002. As used in this division, legislative district 27844  
means a district determined under Article XI of the Ohio 27845  
Constitution. 27846~~

~~(3) The board of elections may apply to the secretary of 27847  
state for a waiver from the requirement of division (B)(1) of this 27848  
section when it is not feasible to comply with that requirement 27849  
because of unusual physical boundaries or residential development 27850  
practices that would cause unusual hardship for voters. The board 27851  
shall identify the affected precincts and census units, explain 27852  
the reason for the waiver request, and include a map illustrating 27853  
where the census units will be split because of the requested 27854  
waiver. If the secretary of state approves the waiver and so 27855  
notifies the board of elections in writing, the board may change a 27856  
precinct boundary as necessary under this section, notwithstanding 27857  
the requirement in division (B)(1) of this section. 27858~~

~~(C) The board of elections may apply to the secretary of 27859  
state for a waiver from the requirement of division (A) of this 27860  
section regarding the number of electors in a precinct when the 27861~~

use of geographical units used by the United States department of 27862  
commerce, bureau of the census, will cause a precinct to contain 27863  
more than one thousand four hundred electors. The board shall 27864  
identify the affected precincts and census units, explain the 27865  
reason for the waiver request, and include a map illustrating 27866  
where census units will be split because of the requested waiver. 27867  
If the secretary of state approves the waiver and so notifies the 27868  
board of elections in writing, the board may change a precinct 27869  
boundary as necessary to meet the requirements of division (B)(1) 27870  
of this section. 27871

**Sec. 3501.30.** (A) The board of elections shall provide for 27872  
each polling place the necessary ballot boxes, official ballots, 27873  
cards of instructions, registration forms, pollbooks, or poll 27874  
lists, tally sheets, forms on which to make summary statements, 27875  
writing implements, paper, and all other supplies necessary for 27876  
casting and counting the ballots and recording the results of the 27877  
voting at ~~such~~ the polling place. ~~Such~~ The pollbooks or poll lists 27878  
shall have certificates appropriately printed ~~thereon~~ on them for 27879  
the signatures of all the precinct officials, by which they shall 27880  
certify that, to the best of their knowledge and belief, ~~said~~ the 27881  
pollbooks or poll lists correctly show the names of all electors 27882  
who voted in ~~such~~ the polling place at the election indicated 27883  
~~therein~~ in the pollbook or poll list. 27884

A All of the following shall be included among the supplies 27885  
provided to each polling place: 27886

(1) A large map of each appropriate precinct shall be 27887  
~~included among the supplies to each polling place,~~ which shall be 27888  
displayed prominently to assist persons who desire to register or 27889  
vote on election day. Each map shall show all streets within the 27890  
precinct and contain identifying symbols of the precinct in bold 27891  
print. 27892

~~Such supplies shall also include a~~ (2) Any materials, 27893  
postings, or instructions required to comply with state or federal 27894  
laws; 27895

(3) A flag of the United States approximately two and 27896  
one-half feet in length along the top, which shall be displayed 27897  
outside the entrance to the polling place during the time it is 27898  
open for voting. ~~Two;~~ 27899

(4) Two or more small flags of the United States 27900  
approximately fifteen inches in length along the top ~~shall be~~ 27901  
~~provided and, which~~ shall be placed at a distance of one hundred 27902  
feet from the polling place on the thoroughfares or walkways 27903  
leading to the polling place, to mark the distance within which 27904  
persons other than election officials, witnesses, challengers, 27905  
police officers, and electors waiting to mark, marking, or casting 27906  
their ballots shall not loiter, congregate, or engage in any kind 27907  
of election campaigning. Where small flags cannot reasonably be 27908  
placed one hundred feet from the polling place, the presiding 27909  
election judge shall place the flags as near to one hundred feet 27910  
from the entrance to the polling place as is physically possible. 27911  
Police officers and all election officials shall see that this 27912  
prohibition against loitering and congregating is enforced. ~~When~~ 27913

When the period of time during which the polling place is 27914  
open for voting expires, all of ~~said~~ the flags described in this 27915  
division shall be taken into the polling place, and shall be 27916  
returned to the board together with all other election ~~materials~~ 27917  
~~and~~ supplies required to be delivered to ~~such~~ the board. 27918

(B) The board of elections shall follow the instructions and 27919  
advisories of the secretary of state in the production and use of 27920  
polling place supplies. 27921

**Sec. 3503.10.** (A) Each designated agency shall designate one 27922

person within that agency to serve as coordinator for the voter 27923  
registration program within the agency and its departments, 27924  
divisions, and programs. The designated person shall be trained 27925  
under a program designed by the secretary of state and shall be 27926  
responsible for administering all aspects of the voter 27927  
registration program for that agency as prescribed by the 27928  
secretary of state. The designated person shall receive no 27929  
additional compensation for performing such duties. 27930

(B) Every designated agency, public high school and 27931  
vocational school, public library, and office of a county 27932  
treasurer shall provide in each of its offices or locations voter 27933  
registration applications and assistance in the registration of 27934  
persons qualified to register to vote, in accordance with this 27935  
chapter. 27936

(C) Every designated agency shall distribute to its 27937  
applicants, prior to or in conjunction with distributing a voter 27938  
registration application, a form prescribed by the secretary of 27939  
state that includes all of the following: 27940

(1) The question, "Do you want to register to vote or update 27941  
your current voter registration?"--followed by boxes for the 27942  
applicant to indicate whether the applicant would like to register 27943  
or decline to register to vote, and the statement, highlighted in 27944  
bold print, "If you do not check either box, you will be 27945  
considered to have decided not to register to vote at this time.;" 27946

(2) If the agency provides public assistance, the statement, 27947  
"Applying to register or declining to register to vote will not 27948  
affect the amount of assistance that you will be provided by this 27949  
agency.;" 27950

(3) The statement, "If you would like help in filling out the 27951  
voter registration application form, we will help you. The 27952  
decision whether to seek or accept help is yours. You may fill out 27953

the application form in private."; 27954

(4) The statement, "If you believe that someone has 27955  
interfered with your right to register or to decline to register 27956  
to vote, your right to privacy in deciding whether to register or 27957  
in applying to register to vote, or your right to choose your own 27958  
political party or other political preference, you may file a 27959  
complaint with the prosecuting attorney of your county or with the 27960  
secretary of state," with the address and telephone number for 27961  
each such official's office. 27962

(D) Each designated agency shall distribute a voter 27963  
registration form prescribed by the secretary of state to each 27964  
applicant with each application for service or assistance, and 27965  
with each written application or form for recertification, 27966  
renewal, or change of address. 27967

(E) Each designated agency shall do all of the following: 27968

(1) Have employees trained to administer the voter 27969  
registration program in order to provide to each applicant who 27970  
wishes to register to vote and who accepts assistance, the same 27971  
degree of assistance with regard to completion of the voter 27972  
registration application as is provided by the agency with regard 27973  
to the completion of its own form; 27974

(2) Accept completed voter registration applications, voter 27975  
registration change of residence forms, and voter registration 27976  
change of name forms, regardless of whether the application or 27977  
form was distributed by the designated agency, for transmittal to 27978  
the office of the board of elections in the county in which the 27979  
agency is located. Each designated agency and the appropriate 27980  
board of elections shall establish a method by which the voter 27981  
registration applications and other voter registration forms are 27982  
transmitted to that board of elections within five days after 27983  
being accepted by the agency. 27984

(3) If the designated agency is one that is primarily engaged 27985  
in providing services to persons with disabilities under a 27986  
state-funded program, and that agency provides services to a 27987  
person with disabilities at a person's home, provide the services 27988  
described in divisions (E)(1) and (2) of this section at the 27989  
person's home; 27990

(4) Keep as confidential, except as required by the secretary 27991  
of state for record-keeping purposes, the identity of an agency 27992  
through which a person registered to vote or updated the person's 27993  
voter registration records, and information relating to a 27994  
declination to register to vote made in connection with a voter 27995  
registration application issued by a designated agency. 27996

(F) The secretary of state shall prepare and transmit written 27997  
instructions on the implementation of the voter registration 27998  
program within each designated agency, public high school and 27999  
vocational school, public library, and office of a county 28000  
treasurer. The instructions shall include directions as follows: 28001

(1) That each person designated to assist with voter 28002  
registration maintain strict neutrality with respect to a person's 28003  
political philosophies, a person's right to register or decline to 28004  
register, and any other matter that may influence a person's 28005  
decision to register or not register to vote; 28006

(2) That each person designated to assist with voter 28007  
registration not seek to influence a person's decision to register 28008  
or not register to vote, not display or demonstrate any political 28009  
preference or party allegiance, and not make any statement to a 28010  
person or take any action the purpose or effect of which is to 28011  
lead a person to believe that a decision to register or not 28012  
register has any bearing on the availability of services or 28013  
benefits offered, on the grade in a particular class in school, or 28014  
on credit for a particular class in school; 28015

(3) Regarding when and how to assist a person in completing the voter registration application, what to do with the completed voter registration application or voter registration update form, and when the application must be transmitted to the appropriate board of elections;

(4) Regarding what records must be kept by the agency and where and when those records should be transmitted to satisfy reporting requirements imposed on the secretary of state under the National Voter Registration Act of 1993;

(5) Regarding whom to contact to obtain answers to questions about voter registration forms and procedures.

(G) If the voter registration activity is part of an in-class voter registration program in a public high school or vocational school, whether prescribed by the secretary of state or independent of the secretary of state, the board of education shall do all of the following:

(1) Establish a schedule of school days and hours during these days when the person designated to assist with voter registration shall provide voter registration assistance;

(2) Designate a person to assist with voter registration from the public high school's or vocational school's staff;

(3) Make voter registration applications and materials available, as outlined in the voter registration program established by the secretary of state pursuant to section 3501.05 of the Revised Code;

(4) Distribute the statement, "applying to register or declining to register to vote will not affect or be a condition of your receiving a particular grade in or credit for a school course or class, participating in a curricular or extracurricular activity, receiving a benefit or privilege, or participating in a



program or activity otherwise available to pupils enrolled in this 28046  
school district's schools."; 28047

(5) Establish a method by which the voter registration 28048  
application and other voter registration forms are transmitted to 28049  
the board of elections within five days after being accepted by 28050  
the public high school or vocational school. 28051

(H) Any person employed by the designated agency, public high 28052  
school or vocational school, public library, or office of a county 28053  
treasurer may be designated to assist with voter registration 28054  
pursuant to this section. The designated agency, public high 28055  
school or vocational school, public library, or office of a county 28056  
treasurer shall provide the designated person, and make available 28057  
such space as may be necessary, without charge to the county or 28058  
state. 28059

(I) The secretary of state shall prepare and cause to be 28060  
displayed in a prominent location in each designated agency a 28061  
notice that identifies the person designated to assist with voter 28062  
registration, the nature of that person's duties, and where and 28063  
when that person is available for assisting in the registration of 28064  
voters. 28065

A designated agency may furnish additional supplies and 28066  
services to disseminate information to increase public awareness 28067  
of the existence of a person designated to assist with voter 28068  
registration in every designated agency. 28069

(J) This section does not limit any authority a board of 28070  
education, superintendent, or principal has to allow, sponsor, or 28071  
promote voluntary election registration programs within a high 28072  
school or vocational school, including programs in which pupils 28073  
serve as persons designated to assist with voter registration, 28074  
provided that no pupil is required to participate. 28075

(K) Each public library and office of the county treasurer 28076

shall establish a method by which voter registration forms are 28077  
transmitted to the board of elections within five days after being 28078  
accepted by the public library or office of the county treasurer. 28079

(L) The department of job and family services and its 28080  
departments, divisions, and programs shall limit administration of 28081  
the aspects of the voter registration program for the department 28082  
to the requirements prescribed by the secretary of state and the 28083  
requirements of this section and the National Voter Registration 28084  
Act of 1993. 28085

**Sec. 3505.061.** (A) The Ohio ballot board, as authorized by 28086  
Section 1 of Article XVI, Ohio Constitution, shall consist of the 28087  
secretary of state and four appointed members. No more than two of 28088  
the appointed members shall be of the same political party. One of 28089  
the members shall be appointed by the president of the senate, one 28090  
shall be appointed by the minority leader of the senate, one shall 28091  
be appointed by the speaker of the house of representatives, and 28092  
one shall be appointed by the minority leader of the house of 28093  
representatives. The appointments shall be made no later than the 28094  
last Monday in January in the year in which the appointments are 28095  
to be made. If any appointment is not so made, the secretary of 28096  
state, acting in place of the person otherwise required to make 28097  
the appointment, shall appoint as many qualified members 28098  
affiliated with the appropriate political party as are necessary. 28099

(B)(1) The initial appointees to the board shall serve until 28100  
the first Monday in February, 1977. Thereafter, terms of office 28101  
shall be for four years, each term ending on the first Monday in 28102  
February. The term of the secretary of state on the board shall 28103  
coincide with the secretary of state's term of office. Except as 28104  
otherwise provided in division (B)(2) of this section, division 28105  
(B)(2) of section 3505.063, and division (B)(2) of section 3519.03 28106  
of the Revised Code, each appointed member shall hold office from 28107

the date of appointment until the end of the term for which the member was appointed. Except as otherwise provided in those divisions, any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Except as otherwise provided in those divisions, any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or a period of sixty days has elapsed, whichever occurs first. Any vacancy occurring on the board shall be filled in the manner provided for original appointments. A member appointed to fill a vacancy shall be of the same political party as that required of the member whom the member replaces.

(2) The term of office of a member of the board who also is a member of the general assembly and who was appointed to the board by the president of the senate, the minority leader of the senate, the speaker of the house of representatives, or the minority leader of the house of representatives shall end on the earlier of the following dates:

(a) The ending date of the ballot board term for which the member was appointed;

(b) The ending date of the member's term as a member of the general assembly.

(C) Members of the board shall serve without compensation but shall be reimbursed for expenses actually and necessarily incurred in the performance of their duties.

(D) The secretary of state shall be the chairperson of the board, and the secretary of state or the secretary of state's representative shall have a vote equal to that of any other member. The vice-chairperson shall act as chairperson in the absence or disability of the chairperson, or during a vacancy in

that office. The board shall meet after notice of at least seven 28139  
days at a time and place determined by the chairperson. At its 28140  
first meeting, the board shall elect a vice-chairperson from among 28141  
its members for a term of two years, and it shall adopt rules for 28142  
its procedures. After the first meeting, the board shall meet at 28143  
the call of the chairperson or upon the written request of three 28144  
other members. Three members constitute a quorum. No action shall 28145  
be taken without the concurrence of three members. 28146

(E) The secretary of state shall provide technical, 28147  
professional, and clerical employees as necessary for the board to 28148  
carry out its duties. 28149

**Sec. 3505.08.** (A) Ballots shall be provided by the board of 28150  
elections for all general and special elections. ~~Such~~ The ballots 28151  
shall be printed with black ink on No. 2 white book paper fifty 28152  
pounds in weight per ream assuming such ream to consist of five 28153  
hundred sheets of such paper twenty-five by thirty-eight inches in 28154  
size. Each ballot shall have attached at the top two stubs, each 28155  
of the width of the ballot and not less than one-half inch in 28156  
length, except that, if the board of elections has an alternate 28157  
method to account for the ballots that the secretary of state has 28158  
authorized, each ballot may have only one stub that shall be the 28159  
width of the ballot and not less than one-half inch in length. In 28160  
the case of ballots with two stubs, the stubs shall be separated 28161  
from the ballot and from each other by perforated lines. The top 28162  
stub shall be known as Stub B and shall have printed on its face 28163  
"Stub B." The other stub shall be known as Stub A and shall have 28164  
printed on its face "Stub A." Each stub shall also have printed on 28165  
its face "Consecutive Number ....." ~~Each~~ 28166

Each ballot of each kind of ballot provided for use in each 28167  
precinct shall be numbered consecutively beginning with number 1 28168  
by printing such number upon both of the stubs attached ~~thereto~~ to 28169

the ballot. On ballots bearing the names of candidates, each 28170  
candidate's name shall be printed in twelve point boldface upper 28171  
case type in an enclosed rectangular space, and an enclosed blank 28172  
rectangular space shall be provided at the left ~~thereof~~ of the 28173  
candidate's name. The name of the political party of a candidate 28174  
nominated at a primary election or certified by a party committee 28175  
shall be printed in ten point lightface upper and lower case type 28176  
and shall be separated by a two point blank space. The name of 28177  
each candidate shall be indented one space within ~~such~~ the 28178  
enclosed rectangular space, and the name of the political party 28179  
shall be indented two spaces within ~~such~~ the enclosed rectangular 28180  
space. ~~The~~ 28181

The title of each office on ~~such~~ the ballots shall be printed 28182  
in twelve point boldface upper and lower case type in a separate 28183  
enclosed rectangular space. A four point rule shall separate the 28184  
name of a candidate or a group of candidates for the same office 28185  
from the title of the office next appearing below on the ballot, 28186  
~~and~~; a two point rule shall separate the title of the office from 28187  
the names of candidates; and a one point rule shall separate names 28188  
of candidates. Headings shall be printed in display Roman type. 28189  
When the names of several candidates are grouped together as 28190  
candidates for the same office, there shall be printed on ~~such~~ the 28191  
ballots immediately below the title of ~~such~~ the office and within 28192  
the separate rectangular space in which ~~such~~ the title is printed 28193  
"Vote for not more than . . . . .," in six point boldface upper and 28194  
lower case filling the blank space with that number which will 28195  
indicate the number of persons who may be lawfully elected to ~~such~~ 28196  
the office. 28197

Columns on ballots shall be separated from each other by a 28198  
heavy vertical border or solid line at least one-eighth of an inch 28199  
wide, and a similar vertical border or line shall enclose the left 28200  
and right side of ballots, ~~and ballots~~. Ballots shall be trimmed 28201

along the sides close to such lines. 28202

The ballots provided for by this section shall be comprised 28203  
of four kinds of ballots designated as follows: ~~(A)~~ office type 28204  
ballot; ~~(B)~~ nonpartisan ballot; ~~(C)~~ questions and issues ballot; 28205  
~~(D)~~ and presidential ballot. 28206

On the back of each office type ballot shall be printed 28207  
"Official Office Type Ballot;" on the back of each nonpartisan 28208  
ballot shall be printed "Official Nonpartisan Ballot;" on the back 28209  
of each questions and issues ballot shall be printed "Official 28210  
Questions and Issues Ballot;" and on the back of each presidential 28211  
ballot shall be printed "Official Presidential Ballot." On the 28212  
back of every ballot also shall be printed the date of the 28213  
election at which the ballot is used and the facsimile signatures 28214  
of the members of the board of the county in which the ballot is 28215  
used. For the purpose of identifying the kind of ballot, the back 28216  
of every ballot may be numbered in ~~such the~~ order as the board 28217  
shall determine. ~~Such~~ The numbers shall be printed in not less 28218  
than thirty-six point type above the words "Official Office Type 28219  
Ballot," "Official Nonpartisan Ballot," "Official Questions and 28220  
Issues Ballot," or "Official Presidential Ballot," as the case may 28221  
be. Ballot boxes bearing corresponding numbers shall be furnished 28222  
for each precinct in which the above-described numbered ballots 28223  
are used. 28224

On the back of every ballot used, there shall be a solid 28225  
black line printed opposite the blank rectangular space that is 28226  
used to mark the choice of the voter. This line shall be printed 28227  
wide enough so that the mark in the blank rectangular space will 28228  
not be visible from the back side of the ballot. 28229

Sample ballots may be printed by the board of elections for 28230  
all general elections. ~~Such~~ The ballots shall be printed on 28231  
colored paper, and "Sample Ballot" shall be plainly printed in 28232  
boldface type on the face of each ballot. In counties of less than 28233

one hundred thousand population, the board may print not more than 28234  
five hundred sample ballots; in all other counties, it may print 28235  
not more than one thousand sample ballots. ~~Such~~ The sample ballots 28236  
shall not be distributed by a political party or a candidate, nor 28237  
shall a political party or candidate cause their title or name to 28238  
be imprinted ~~thereon~~ on sample ballots. 28239

(B) Notwithstanding division (A) of this section, in 28240  
approving the form of an official ballot, the secretary of state 28241  
may authorize the use of fonts, type face settings, and ballot 28242  
formats other than those prescribed in that division. 28243

**Sec. 3517.092.** (A) As used in this section: 28244

(1) "Appointing authority" has the same meaning as in section 28245  
124.01 of the Revised Code. 28246

(2) "State elected officer" means any person appointed or 28247  
elected to a state elective office. 28248

(3) "State elective office" means any of the offices of 28249  
governor, lieutenant governor, secretary of state, auditor of 28250  
state, treasurer of state, attorney general, member of the state 28251  
board of education, member of the general assembly, and justice 28252  
and chief justice of the supreme court. 28253

(4) "County elected officer" means any person appointed or 28254  
elected to a county elective office. 28255

(5) "County elective office" means any of the offices of 28256  
county auditor, county treasurer, clerk of the court of common 28257  
pleas, sheriff, county recorder, county engineer, county 28258  
commissioner, prosecuting attorney, and coroner. 28259

(6) "Contribution" includes a contribution to any political 28260  
party, campaign committee, political action committee, political 28261  
contributing entity, or legislative campaign fund. 28262

(B) No state elected officer, no campaign committee of such 28263

an officer, and no other person or entity shall knowingly solicit 28264  
or accept a contribution on behalf of that officer or that 28265  
officer's campaign committee from any of the following: 28266

(1) A state employee whose appointing authority is the state 28267  
elected officer; 28268

(2) A state employee whose appointing authority is authorized 28269  
or required by law to be appointed by the state elected officer; 28270

(3) A state employee who functions in or is employed in or by 28271  
the same public agency, department, division, or office as the 28272  
state elected officer. 28273

(C) No candidate for a state elective office, no campaign 28274  
committee of such a candidate, and no other person or entity shall 28275  
knowingly solicit or accept a contribution on behalf of that 28276  
candidate or that candidate's campaign committee from any of the 28277  
following: 28278

(1) A state employee at the time of the solicitation, whose 28279  
appointing authority will be the candidate, if elected; 28280

(2) A state employee at the time of the solicitation, whose 28281  
appointing authority will be appointed by the candidate, if 28282  
elected, as authorized or required by law; 28283

(3) A state employee at the time of the solicitation, who 28284  
will function in or be employed in or by the same public agency, 28285  
department, division, or office as the candidate, if elected. 28286

(D) No county elected officer, no campaign committee of such 28287  
an officer, and no other person or entity shall knowingly solicit 28288  
a contribution on behalf of that officer or that officer's 28289  
campaign committee from any of the following: 28290

(1) A county employee whose appointing authority is the 28291  
county elected officer; 28292

(2) A county employee whose appointing authority is 28293



authorized or required by law to be appointed by the county	28294
elected officer;	28295
(3) A county employee who functions in or is employed in or	28296
by the same public agency, department, division, or office as the	28297
county elected officer.	28298
(E) No candidate for a county elective office, no campaign	28299
committee of such a candidate, and no other person or entity shall	28300
knowingly solicit a contribution on behalf of that candidate or	28301
that candidate's campaign committee from any of the following:	28302
(1) A county employee at the time of the solicitation, whose	28303
appointing authority will be the candidate, if elected;	28304
(2) A county employee at the time of the solicitation, whose	28305
appointing authority will be appointed by the candidate, if	28306
elected, as authorized or required by law;	28307
(3) A county employee at the time of the solicitation, who	28308
will function in or be employed in or by the same public agency,	28309
department, division, or office as the candidate, if elected.	28310
(F)(1) No public employee shall solicit a contribution from	28311
any person while the public employee is performing the public	28312
employee's official duties or in those areas of a public building	28313
where official business is transacted or conducted.	28314
(2) No person shall solicit a contribution from any public	28315
employee while the public employee is performing the public	28316
employee's official duties or is in those areas of a public	28317
building where official business is transacted or conducted.	28318
(3) As used in division (F) of this section, "public	28319
employee" does not include any person holding an elective office.	28320
(G) The prohibitions in divisions (B), (C), (D), (E), and (F)	28321
of this section are in addition to the prohibitions in sections	28322
124.57, <del>1553.09</del> , 3304.22, and 4503.032 of the Revised Code.	28323

**Sec. 3701.02.** There is hereby created a department of health. 28324  
The department shall consist of a director of health ~~and~~, a public 28325  
health council, and the Ohio occupational therapy, physical 28326  
therapy, and athletic trainers board. 28327

**Sec. 3701.021.** (A) The public health council shall adopt, in 28328  
accordance with Chapter 119. of the Revised Code, such rules as 28329  
are necessary to carry out sections 3701.021 to ~~3701.028~~ 3701.0210 28330  
of the Revised Code, including, but not limited to, rules to 28331  
establish the following: 28332

(1) Medical and financial eligibility requirements for the 28333  
program for medically handicapped children; 28334

(2) Eligibility requirements for providers of services for 28335  
medically handicapped children; 28336

(3) Procedures to be followed by the department of health in 28337  
disqualifying providers for violating requirements adopted under 28338  
division (A)(2) of this section; 28339

(4) Procedures to be used by the department regarding 28340  
application for diagnostic services under division (B) of section 28341  
3701.023 of the Revised Code and payment for those services under 28342  
division (E) of that section; 28343

(5) Standards for the provision of service coordination by 28344  
the department of health and city and general health districts; 28345

(6) Procedures for the department to use to determine the 28346  
amount to be paid annually by each county for services for 28347  
medically handicapped children and to allow counties to retain 28348  
funds under divisions (A)(2) and (3) of section 3701.024 of the 28349  
Revised Code; 28350

(7) Financial eligibility requirements for services for Ohio 28351  
residents twenty-one years of age or older who have cystic 28352

fibrosis;	28353
(8) Criteria for payment of approved providers who provide services for medically handicapped children;	28354 28355
(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;	28356 28357 28358
(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;	28359 28360 28361
(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;	28362 28363 28364
<u>(12) Eligibility requirements for the hemophilia program, including income and hardship requirements.</u>	28365 28366
(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 <del>3701.028</del> <u>3701.0210</u> of the Revised Code.	28367 28368 28369 28370
<b>Sec. 3701.022.</b> As used in sections 3701.021 to <del>3701.028</del> <u>3701.0210</u> of the Revised Code:	28371 28372
(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.	28373 28374 28375 28376 28377
(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	28378 28379 28380 28381 28382

program for medically handicapped children.	28383
(C) "Service coordination" means case management services provided to medically handicapped children that promote effective and efficient organization and utilization of public and private resources and ensure that care rendered is family-centered, community-based, and coordinated.	28384 28385 28386 28387 28388
(D)(1) "Third party" means any person or government entity other than the following:	28389 28390
(a) A medically handicapped child participating in the program for medically handicapped children or the child's parent or guardian;	28391 28392 28393
(b) The department or any program administered by the department, including the "Maternal and Child Health Block Grant," Title V of the "Social Security Act," 95 Stat. 818 (1981), 42 U.S.C.A. 701, as amended;	28394 28395 28396 28397
(c) The "caring program for children" operated by the nonprofit community mutual insurance corporation.	28398 28399
(2) "Third party" includes all of the following:	28400
(a) Any trust established to benefit a medically handicapped child participating in the program or the child's family or guardians, if the trust was established after the date the medically handicapped child applied to participate in the program;	28401 28402 28403 28404
(b) That portion of a trust designated to pay for the medical and ancillary care of a medically handicapped child, if the trust was established on or before the date the medically handicapped child applied to participate in the program;	28405 28406 28407 28408
(c) The program awarding reparations to victims of crime established under sections 2743.51 to 2743.72 of the Revised Code.	28409 28410
(E) "Third-party benefits" means any and all benefits paid by a third party to or on behalf of a medically handicapped child	28411 28412

participating in the program or the child's parent or guardian for 28413  
goods or services that are authorized by the department pursuant 28414  
to division (B) or (D) of section 3701.023 of the Revised Code. 28415

(F) "Hemophilia program" means the hemophilia program the 28416  
department of health is required to establish and administer under 28417  
section 3701.029 of the Revised Code. 28418

**Sec. 3701.024.** (A)(1) Under a procedure established in rules 28419  
adopted under section 3701.021 of the Revised Code, the department 28420  
of health shall determine the amount each county shall provide 28421  
annually for the program for medically handicapped children, based 28422  
on a proportion of the county's total general property tax 28423  
duplicate, not to exceed one-tenth of a mill ~~through fiscal year~~ 28424  
~~2005 and three tenths of a mill thereafter~~, and charge the county 28425  
for any part of expenses incurred under the program for treatment 28426  
services on behalf of medically handicapped children having legal 28427  
settlement in the county that is not paid from federal funds or 28428  
through the medical assistance program established under section 28429  
5111.01 of the Revised Code. The department shall not charge the 28430  
county for expenses exceeding the difference between the amount 28431  
determined under division (A)(1) of this section and any amounts 28432  
retained under divisions (A)(2) and (3) of this section. 28433

All amounts collected by the department under division (A)(1) 28434  
of this section shall be deposited into the state treasury to the 28435  
credit of the medically handicapped children-county assessment 28436  
fund, which is hereby created. The fund shall be used by the 28437  
department to comply with sections 3701.021 to 3701.028 of the 28438  
Revised Code. 28439

(2) The department, in accordance with rules adopted under 28440  
section 3701.021 of the Revised Code, may allow each county to 28441  
retain up to ten per cent of the amount determined under division 28442  
(A)(1) of this section to provide funds to city or general health 28443

districts of the county with which the districts shall provide 28444  
service coordination, public health nursing, or transportation 28445  
services for medically handicapped children. 28446

(3) In addition to any amount retained under division (A)(2) 28447  
of this section, the department, in accordance with rules adopted 28448  
under section 3701.021 of the Revised Code, may allow counties 28449  
that it determines have significant numbers of potentially 28450  
eligible medically handicapped children to retain an amount equal 28451  
to the difference between: 28452

(a) Twenty-five per cent of the amount determined under 28453  
division (A)(1) of this section; 28454

(b) Any amount retained under division (A)(2) of this 28455  
section. 28456

Counties shall use amounts retained under division (A)(3) of 28457  
this section to provide funds to city or general health districts 28458  
of the county with which the districts shall conduct outreach 28459  
activities to increase participation in the program for medically 28460  
handicapped children. 28461

(4) Prior to any increase in the millage charged to a county, 28462  
the public health council shall hold a public hearing on the 28463  
proposed increase and shall give notice of the hearing to each 28464  
board of county commissioners that would be affected by the 28465  
increase at least thirty days prior to the date set for the 28466  
hearing. Any county commissioner may appear and give testimony at 28467  
the hearing. Any increase in the millage any county is required to 28468  
provide for the program for medically handicapped children shall 28469  
be determined, and notice of the amount of the increase shall be 28470  
provided to each affected board of county commissioners, no later 28471  
than the first day of June of the fiscal year next preceding the 28472  
fiscal year in which the increase will take effect. 28473

(B) Each board of county commissioners shall establish a 28474

medically handicapped children's fund and shall appropriate 28475  
thereto an amount, determined in accordance with division (A)(1) 28476  
of this section, for the county's share in providing medical, 28477  
surgical, and other aid to medically handicapped children residing 28478  
in such county and for the purposes specified in divisions (A)(2) 28479  
and (3) of this section. Each county shall use money retained 28480  
under divisions (A)(2) and (3) of this section only for the 28481  
purposes specified in those divisions. 28482

Sec. 3701.029. Subject to available funds, the department of 28483  
health shall establish and administer a hemophilia program to 28484  
provide payment of health insurance premiums for Ohio residents 28485  
who meet all of the following requirements: 28486

(A) Have been diagnosed with hemophilia or a related bleeding 28487  
disorder; 28488

(B) Are at least twenty-one years of age; 28489

(C) Meet the eligibility requirements established by rules 28490  
adopted under division (A)(12) of section 3701.021 of the Revised 28491  
Code. 28492

~~Sec. 3701.145~~ 3701.0210. The ~~director of health~~ medically 28493  
handicapped children's medical advisory council shall ~~establish~~ 28494  
appoint a hemophilia advisory ~~council~~ subcommittee to advise the 28495  
director ~~and the department~~ of health and council on all matters 28496  
pertaining to the care and treatment of persons with hemophilia. 28497  
The ~~council~~ subcommittee shall consist of not fewer than ~~nineteen~~ 28498  
fifteen members, each of whom shall be appointed ~~by the director~~ 28499  
to terms of four years. The members of the ~~council~~ subcommittee 28500  
shall elect a chairperson from among the appointed membership to 28501  
serve a term of two years. Members of the ~~council~~ subcommittee 28502  
shall serve without compensation, except that they may be 28503  
reimbursed for travel expenses to and from meetings of the ~~council~~ 28504

subcommittee. 28505

Members shall be appointed to represent all geographic areas 28506  
of this state. Not fewer than five members of the ~~council~~ 28507  
subcommittee shall be persons with hemophilia or family members of 28508  
persons with hemophilia. Not fewer than five members shall be 28509  
providers of health care services to persons with hemophilia. Not 28510  
fewer than five members shall be experts in fields of importance 28511  
to treatment of persons with hemophilia, including experts in 28512  
infectious diseases, insurance, and law. 28513

~~The council shall submit to the director of health, the 28514  
governor, and the general assembly, a report no later than the 28515  
thirtieth day of September of each year summarizing the current 28516  
status and needs of persons in this state with hemophilia and of 28517  
family members of persons with hemophilia.~~ 28518

Notwithstanding section 101.83 of the Revised Code, that 28519  
section does not apply to the medically handicapped children's 28520  
medical advisory council hemophilia advisory subcommittee, and the 28521  
subcommittee shall not expire under that section. 28522

**Sec. 3701.141.** (A) There is hereby created in the department 28523  
of health the ~~office of women's health initiatives program,~~ 28524  
~~consisting of the chief of the office and an administrative 28525  
assistant. To the extent of available funds, other positions 28526  
determined necessary and relevant by the director of health may be 28527  
added. The administrative assistant and all other employees 28528  
assigned to the office shall report to the chief and the chief to 28529  
the director or the deputy specified by the director.~~ 28530

(B) To the extent funds are available, the ~~office of women's 28531  
health initiatives program~~ shall: 28532

(1) Identify, review, and assist the director in the 28533  
coordination of programs and resources the department of health is 28534



committing to women's health concerns, including the department's 28535  
women's and infants' program activities; 28536

(2) Advocate for women's health by requesting that the 28537  
department conduct, sponsor, encourage, or fund research; 28538  
establish additional programs regarding women's health concerns as 28539  
needed; and monitor the research and program efforts; 28540

(3) Collect, classify, and store relevant research conducted 28541  
by the department or other entities, and provide, unless otherwise 28542  
prohibited by law, interested persons access to research results; 28543

(4) ~~Generate~~ Apply for grant ~~activities opportunities.~~ 28544

~~(C) Prior to the director's report to the governor on the 28545  
department's biennial budget request, the office of women's health 28546  
initiatives shall submit in writing to the director of health a 28547  
biennial report of recommended programs, projects, and research to 28548  
address critical issues in women's health. 28549~~

**Sec. 3701.342.** After consultation with the public health 28550  
standards task force established under section 3701.343 of the 28551  
Revised Code, the public health council shall adopt rules 28552  
establishing minimum standards and optimum achievable standards 28553  
for boards of health and local health departments. The minimum 28554  
standards shall assure that boards of health and local health 28555  
departments provide for the following: 28556

(A) Analysis and prevention of communicable disease; 28557

(B) Analysis of the causes of, and appropriate treatment for, 28558  
the leading causes of morbidity and mortality; 28559

(C) The administration and management of the local health 28560  
department; 28561

(D) Access to primary health care by medically underserved 28562  
individuals; 28563

(E) Environmental health management programs;	28564
(F) Health promotion services designed to encourage individual and community wellness.	28565 28566
The public health council shall adopt rules establishing a formula for distribution of state health district subsidy funds to boards of health and local health departments. The formula shall provide no subsidy funds to a board or department unless it meets minimum standards and shall provide higher funding levels for boards and districts that meet optimum achievable standards.	28567 28568 28569 28570 28571 28572
<del>Notwithstanding section 119.03 of the Revised Code, rules adopted under this section shall not take effect unless approved by concurrent resolution of the general assembly.</del>	28573 28574 28575
<u>Sec. 3701.61. (A) The department of health shall establish the help me grow program for the purpose of encouraging early prenatal and well-baby care. The program shall include distributing subsidies to counties to provide the following services:</u>	28576 28577 28578 28579 28580
<u>(1) Home-visiting services to newborn infants and their families;</u>	28581 28582
<u>(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.</u>	28583 28584 28585
<u>(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.</u>	28586 28587 28588
<u>(C) Pursuant to Chapter 119. of the Revised Code, the department shall adopt rules that are necessary and proper to implement this section.</u>	28589 28590 28591
<b>Sec. 3702.31. (A) The quality monitoring and inspection fund</b>	28592

is hereby created in the state treasury. The director of health 28593  
shall use the fund to administer and enforce this section and 28594  
sections 3702.11 to 3702.20, 3702.30, and 3702.32 of the Revised 28595  
Code and rules adopted pursuant to those sections. The director 28596  
shall deposit in the fund any moneys collected pursuant to this 28597  
section or section 3702.32 of the Revised Code. All investment 28598  
earnings of the fund shall be credited to the fund. 28599

(B) The director of health shall adopt rules pursuant to 28600  
Chapter 119. of the Revised Code establishing fees for both of the 28601  
following: 28602

(1) Initial and renewal license applications submitted under 28603  
section 3702.30 of the Revised Code. The fees established under 28604  
division (B)(1) of this section shall not exceed the actual and 28605  
necessary costs of performing the activities described in division 28606  
(A) of this section. 28607

(2) Inspections conducted under section 3702.15 or 3702.30 of 28608  
the Revised Code. The fees established under division (B)(2) of 28609  
this section shall not exceed the actual and necessary costs 28610  
incurred during an inspection, including any indirect costs 28611  
incurred by the department for staff, salary, or other 28612  
administrative costs. The director of health shall provide to each 28613  
health care facility or provider inspected pursuant to section 28614  
3702.15 or 3702.30 of the Revised Code a written statement of the 28615  
fee. The statement shall itemize and total the costs incurred. 28616  
Within fifteen days after receiving a statement from the director, 28617  
the facility or provider shall forward the total amount of the fee 28618  
to the director. 28619

(3) The fees described in divisions (B)(1) and (2) of this 28620  
section shall meet both of the following requirements: 28621

(a) For each service described in section 3702.11 of the 28622  
Revised Code, the fee shall not exceed one thousand ~~two~~ seven 28623

hundred fifty dollars annually, except that the total fees charged 28624  
to a health care provider under this section shall not exceed five 28625  
thousand dollars annually. 28626

(b) The fee shall exclude any costs reimbursable by the 28627  
United States health care financing administration as part of the 28628  
certification process for the medicare program established under 28629  
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 28630  
U.S.C.A. 301, as amended, and the medicaid program established 28631  
under Title XIX of that act. 28632

(4) The director shall not establish a fee for any service 28633  
for which a licensure or inspection fee is paid by the health care 28634  
provider to a state agency for the same or similar licensure or 28635  
inspection. 28636

**Sec. 3702.529.** (A) A person granted a nonreviewability ruling 28637  
prior to April 20, 1995, may implement the activity for which the 28638  
ruling was issued in accordance with the information provided to 28639  
the director of health in the request for the ruling, 28640  
notwithstanding the amendments to sections 3702.51 to 3702.62 of 28641  
the Revised Code by Amended Substitute Senate Bill No. 50 and 28642  
Amended Substitute Senate Bill No. 156, both of the 121st general 28643  
assembly. A person granted a certificate of need or 28644  
nonreviewability ruling prior to that date is not required to file 28645  
a notice of intent under section 3702.581 of the Revised Code, as 28646  
that section existed prior to the effective date of this 28647  
amendment, with respect to the activity for which the certificate 28648  
or ruling was issued. 28649

(B) A certificate of need is not required for any person to 28650  
add a cardiac catheterization laboratory to an existing cardiac 28651  
catheterization service, as described in division (R)(11) of 28652  
section 3702.51 of the Revised Code, if the person, prior to ~~the~~ 28653  
~~effective date of this section~~ June 30, 1995, filed a notice of 28654

intent under section 3702.581 of the Revised Code, as that section 28655  
existed prior to the effective date of this amendment, to do so. 28656  
However, the exemption provided by this division expires six 28657  
months after ~~the effective date of this section~~ June 30, 1995, 28658  
unless the person has taken action to implement the addition by 28659  
taking the applicable action listed in divisions (A)(1) to (6) of 28660  
section 3702.525 of the Revised Code and provides the director 28661  
with written documentation that action has been taken. 28662

(C) The director shall issue a reviewability ruling, in 28663  
accordance with the version of section 3702.528 of the Revised 28664  
Code in effect immediately prior to ~~the effective date of this~~ 28665  
~~section~~ June 30, 1995, to any hospital that requested one prior to 28666  
that date concerning a relocation of any of the following to 28667  
another hospital in the same or a different metropolitan 28668  
statistical area: 28669

(1) Obstetric or newborn care beds registered under section 28670  
3701.07 of the Revised Code as level II or III beds; 28671

(2) Pediatric intensive care beds; 28672

(3) A health service specified in division (R)(1) of section 28673  
3702.51 of the Revised Code. 28674

A certificate of need is not required to conduct such a 28675  
relocation for which the director has issued a nonreviewability 28676  
ruling. However, the exemption provided by this division expires 28677  
six months after ~~the effective date of this section~~ June 30, 1995, 28678  
unless the hospital has taken action to implement the relocation 28679  
by taking the applicable action listed in divisions (A)(1) to (6) 28680  
of section 3702.525 of the Revised Code and provides the director 28681  
with written documentation that action has been taken. 28682

The director shall not issue a reviewability ruling requested 28683  
under the previous version of section 3702.528 of the Revised Code 28684  
concerning a relocation of long-term care beds. 28685

(D) A certificate of need is not required to relocate 28686  
existing health services from one hospital to another, as 28687  
described in division (T) of the version of section 3702.51 of the 28688  
Revised Code in effect immediately prior to ~~the effective date of~~ 28689  
~~this section June 30, 1995~~, if the hospitals filed the notice of 28690  
intent required by division (T)(2) of that version prior to ~~the~~ 28691  
~~effective date of this amendment June 30, 1995~~, and comply with 28692  
divisions (T)(1) and (T)(3) to (6) of that version. 28693

**Sec. 3702.53.** (A) No person shall carry out any reviewable 28694  
activity unless a certificate of need for such activity has been 28695  
granted under sections 3702.51 to 3702.62 of the Revised Code or 28696  
the person is exempted by division (T) of section 3702.51 or 28697  
section 3702.527, 3702.528, 3702.529, 3702.5210, or 3702.62 of the 28698  
Revised Code from the requirement that a certificate of need be 28699  
obtained. No person shall carry out any reviewable activity if a 28700  
certificate of need authorizing that activity has been withdrawn 28701  
by the director of health under section 3702.52 or 3702.526 of the 28702  
Revised Code. No person shall carry out a reviewable activity if 28703  
the certificate of need authorizing that activity is void pursuant 28704  
to section 3702.524 of the Revised Code or has expired pursuant to 28705  
section 3702.525 of the Revised Code. 28706

(B) No person shall separate portions of any proposal for any 28707  
reviewable activity to evade the requirements of sections 3702.51 28708  
to 3702.62 of the Revised Code. 28709

(C) No person granted a certificate of need shall carry out 28710  
the reviewable activity authorized by the certificate of need 28711  
other than in substantial accordance with the approved application 28712  
for the certificate of need. 28713

~~(D) No person shall fail to file a notice required by section 28714~~  
~~3702.581 of the Revised Code.~~ 28715

**Sec. 3702.532.** When the director of health determines that a person has violated section 3702.53 of the Revised Code, the director shall send a notice to the person by certified mail, return receipt requested, specifying the activity constituting the violation and the penalties imposed under section 3702.54, 3702.541, or 3702.542, ~~or 3702.543~~ of the Revised Code.

**Sec. 3702.54.** Except as provided in sections 3702.541, and 3702.542, ~~and former section~~ 3702.543 of the Revised Code, divisions (A) and (B) of this section apply when the director of health determines that a person has violated section 3702.53 of the Revised Code.

(A) The director shall impose a civil penalty on the person in an amount equal to the greatest of the following:

(1) Three thousand dollars;

(2) Five per cent of the operating cost of the activity that constitutes the violation during the period of time it was conducted in violation of section 3702.53 of the Revised Code;

(3) Two per cent of the total capital cost associated with implementation of the activity.

In no event, however, shall the penalty exceed two hundred fifty thousand dollars.

(B)(1) Notwithstanding section 3702.52 of the Revised Code, the director shall refuse to accept for review any application for a certificate of need filed by or on behalf of the person, or any successor to the person or entity related to the person, for a period of not less than one year and not more than three years after ~~he~~ the director mails the notice of ~~his~~ the director's determination under section 3702.532 of the Revised Code or, if ~~his~~ the determination is appealed under section 3702.60 of the

Revised Code, the issuance of the order upholding ~~his~~ the 28745  
determination that is not subject to further appeal. In 28746  
determining the length of time during which ~~he will not accept~~ 28747  
applications will not be accepted, the director may consider any 28748  
of the following: 28749

(a) The nature and magnitude of the violation; 28750

(b) The ability of the person to have averted the violation; 28751

(c) Whether the person disclosed the violation to the 28752  
director before the director commenced his investigation; 28753

(d) The person's history of compliance with sections 3702.51 28754  
to 3702.62 and the rules adopted under section 3702.57 of the 28755  
Revised Code; 28756

(e) Any community hardship that may result from refusing to 28757  
accept future applications from the person. 28758

(2) Notwithstanding the one-year minimum imposed by division 28759  
(B)(1) of this section, the director may establish a period of 28760  
less than one year during which ~~he~~ the director will refuse to 28761  
accept certificate of need applications if, after reviewing all 28762  
information available to ~~him~~ the director, ~~he~~ the director 28763  
determines and expressly indicates in the notice mailed under 28764  
section 3702.532 of the Revised Code that refusing to accept 28765  
applications for a longer period would result in hardship to the 28766  
community in which the person provides health services. The 28767  
director's finding of community hardship shall not affect the 28768  
granting or denial of any future certificate of need application 28769  
filed by the person. 28770

**Sec. 3702.544.** Each person required by section 3702.54, 28771  
3702.541, or 3702.542, or former section 3702.543 of the Revised 28772  
Code to pay a civil penalty shall do so not later than sixty days 28773  
after receiving the notice mailed under section 3702.532 of the 28774



Revised Code or, if the person appeals under section 3702.60 of 28775  
the Revised Code the director of health's determination that a 28776  
violation has occurred, not later than sixty days after the 28777  
issuance of an order upholding ~~his~~ the director's determination 28778  
that is not subject to further appeal. The civil penalties shall 28779  
be paid to the director. The director shall deposit them into the 28780  
certificate of need fund created by section 3702.52 of the Revised 28781  
Code. 28782

**Sec. 3702.55.** Except as provided in section 3702.542 of the 28783  
Revised Code, a person that the director of health determines has 28784  
violated section 3702.53 of the Revised Code shall cease 28785  
conducting the activity that constitutes the violation or 28786  
utilizing the equipment or facility resulting from the violation 28787  
not later than thirty days after the person receives the notice 28788  
mailed under section 3702.532 of the Revised Code or, if the 28789  
person appeals the director's determination under section 3702.60 28790  
of the Revised Code, thirty days after the person receives an 28791  
order upholding the director's determination that is not subject 28792  
to further appeal. A person that applies for a certificate of need 28793  
as described in section 3702.542 of the Revised Code shall cease 28794  
conducting the activity or using the equipment or facility in 28795  
accordance with the timetable established by the director of 28796  
health under that section. 28797

If any person determined to have violated section 3702.53 of 28798  
the Revised Code fails to cease conducting an activity or using 28799  
equipment or a facility as required by this section or a timetable 28800  
established under section 3702.542 of the Revised Code, or if the 28801  
person continues to seek payment or reimbursement for services 28802  
rendered or costs incurred in conducting the activity as 28803  
prohibited by section 3702.56 of the Revised Code, in addition to 28804  
the penalties imposed under section 3702.54, 3702.541, or 28805  
3702.542~~7~~ or former section 3702.543 of the Revised Code: 28806

(A) The director of health may refuse to include any beds 28807  
involved in the activity in the bed capacity of a hospital for 28808  
purposes of registration under section 3701.07 of the Revised 28809  
Code; 28810

(B) The director of health may refuse to license, or may 28811  
revoke a license or reduce bed capacity previously granted to, a 28812  
maternity boardinghouse or lying-in hospital under section 3711.02 28813  
of the Revised Code; a hospice care program under section 3712.04 28814  
of the Revised Code; a nursing home, rest home, or home for the 28815  
aging under section 3721.02 of the Revised Code; or any beds 28816  
within any of those facilities that are involved in the activity; 28817

(C) A political subdivision certified under section 3721.09 28818  
of the Revised Code may refuse to license, or may revoke a license 28819  
or reduce bed capacity previously granted to, a nursing home, rest 28820  
home, or home for the aging, or any beds within any of those 28821  
facilities that are involved in the activity; 28822

(D) The director of mental health may refuse to license under 28823  
section 5119.20 of the Revised Code, or may revoke a license or 28824  
reduce bed capacity previously granted to, a hospital receiving 28825  
mentally ill persons or beds within such a hospital that are 28826  
involved in the activity; 28827

(E) The department of job and family services may refuse to 28828  
enter into a provider agreement that includes a facility, beds, or 28829  
services that result from the activity. 28830

**Sec. 3702.60.** (A) Any affected person may appeal a 28831  
reviewability ruling issued on or after April 20, 1995, to the 28832  
director of health in accordance with Chapter 119. of the Revised 28833  
Code, and the director shall provide an adjudication hearing in 28834  
accordance with that chapter. An affected person may appeal the 28835  
director's ruling in the adjudication hearing to the tenth 28836

district court of appeals. 28837

(B) The certificate of need applicant or another affected 28838  
person may appeal to the director in accordance with Chapter 119. 28839  
of the Revised Code a decision issued by the director on or after 28840  
April 20, 1995, to grant or deny a certificate of need application 28841  
for which an adjudication hearing was not conducted under section 28842  
3702.52 of the Revised Code, and the director shall provide an 28843  
adjudication hearing in accordance with that chapter. The 28844  
certificate of need applicant or an affected person that was a 28845  
party to and participated in an adjudication hearing conducted 28846  
under this division or section 3702.52 of the Revised Code may 28847  
appeal to the tenth district court of appeals the decision issued 28848  
by the director following the adjudication hearing. No person may 28849  
appeal to the director or a court the director's granting of a 28850  
certificate of need prior to ~~the effective date of this amendment~~ 28851  
June 30, 1995, under the version of section 3702.52 of the Revised 28852  
Code in effect immediately prior to that date due to failure to 28853  
submit timely written objections, no person may appeal to the 28854  
director or a court the director's granting of a certificate of 28855  
need under division (C)(1) or (2) of section 3702.52 of the 28856  
Revised Code. 28857

(C) The certificate of need holder may appeal to the director 28858  
in accordance with Chapter 119. of the Revised Code a decision 28859  
issued by the director under section 3702.52 or 3702.526 of the 28860  
Revised Code on or after April 20, 1995, to withdraw a certificate 28861  
of need, and the director shall provide an adjudication hearing in 28862  
accordance with that chapter. The person may appeal the director's 28863  
ruling in the adjudication hearing to the tenth district court of 28864  
appeals. 28865

(D) Any person determined by the director to have violated 28866  
section 3702.53 of the Revised Code may appeal that determination, 28867  
or the penalties imposed under section 3702.54, 3702.541, or 28868

3702.542~~7~~ or former section 3702.543 of the Revised Code, to the 28869  
director in accordance with Chapter 119. of the Revised Code, and 28870  
the director shall provide an adjudication hearing in accordance 28871  
with that chapter. The person may appeal the director's ruling in 28872  
the adjudication hearing to the tenth district court of appeals. 28873

(E) Each person appealing under this section to the director 28874  
shall file with the director, not later than thirty days after the 28875  
decision, ruling, or determination of the director was mailed, a 28876  
notice of appeal designating the decision, ruling, or 28877  
determination appealed from. 28878

(F) Each person appealing under this section to the tenth 28879  
district court of appeals shall file with the court, not later 28880  
than thirty days after the date the director's adjudication order 28881  
was mailed, a notice of appeal designating the order appealed 28882  
from. The appellant also shall file notice with the director not 28883  
later than thirty days after the date the order was mailed. 28884

(1) Not later than thirty days after receipt of the notice of 28885  
appeal, the director shall prepare and certify to the court the 28886  
complete record of the proceedings out of which the appeal arises. 28887  
The expense of preparing and transcribing the record shall be 28888  
taxed as part of the costs of the appeal. In the event that the 28889  
record or a part thereof is not certified within the time 28890  
prescribed by this division, the appellant may apply to the court 28891  
for an order that the record be certified. 28892

(2) In hearing the appeal, the court shall consider only the 28893  
evidence contained in the record certified to it by the director. 28894  
The court may remand the matter to the director for the admission 28895  
of additional evidence on a finding that the additional evidence 28896  
is material, newly discovered, and could not with reasonable 28897  
diligence have been ascertained before the hearing before the 28898  
director. Except as otherwise provided by statute, the court shall 28899  
give the hearing on the appeal preference over all other civil 28900

matters, irrespective of the position of the proceedings on the calendar of the court. 28901  
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(3) The court shall affirm the director's order if it finds, upon consideration of the entire record and any additional evidence admitted under division (F)(2) of this section, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it shall reverse, vacate, or modify the order. 28903  
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(4) If the court determines that the director committed material procedural error, the court shall remand the matter to the director for further consideration or action. 28909  
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(G) The court may award reasonable attorney's fees against the appellant if it determines that the appeal was frivolous. Sections 119.092, 119.093, and 2335.39 of the Revised Code do not apply to adjudication hearings under this section or section 3702.52 of the Revised Code and judicial appeals under this section. 28912  
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(H) No person may intervene in an appeal brought under this section. 28918  
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**Sec. 3702.61.** In addition to the sanctions imposed under sections 3702.54, 3702.541, 3702.542, ~~3702.543~~, and 3702.55 and former section 3702.543 of the Revised Code, if any person violates section 3702.53 of the Revised Code, the attorney general may commence necessary legal proceedings in the court of common pleas of Franklin county to enjoin the person from such violation until the requirements of sections 3702.51 to 3702.62 of the Revised Code have been satisfied. At the request of the director of health, the attorney general shall commence any necessary proceedings. The court has jurisdiction to grant and, on a showing of a violation, shall grant appropriate injunctive relief. 28920  
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Sec. 3702.63. As specified in former Section 11 of Am. Sub. S.B. 50 of the 121st general assembly, as amended by Am. Sub. H.B. 405 of the 124th general assembly, all of the following apply:

(A) The removal of former divisions (E) and (F) of section 3702.52 of the Revised Code by Sections 1 and 2 of Am. Sub. S.B. 50 of the 121st general assembly does not release the holders of certificates of need issued under those divisions from complying with any conditions on which the granting of the certificates of need was based, including the requirement of former division (E)(6) of that section that the holders not enter into provider agreements under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, for at least ten years following initial licensure of the long-term care facilities for which the certificates were granted.

(B) The repeal of section 3702.55 of the Revised Code by Section 2 of Am. Sub. S.B. 50 of the 121st general assembly does not release the holders of certificates of need issued under that section from complying with any conditions on which the granting of the certificates of need was based, other than the requirement of division (A)(6) of that section that the holders not seek certification under Title XVIII of the "Social Security Act" for beds recategorized under the certificates. That repeal also does not eliminate the requirement that the director of health revoke the licensure of the beds under Chapter 3721. of the Revised Code if a person to which their ownership is transferred fails, as required by division (A)(6) of the repealed section, to file within ten days after the transfer a sworn statement not to seek certification under Title XIX of the "Social Security Act" for beds recategorized under the certificates of need.

(C) The repeal of section 3702.56 of the Revised Code by

Section 2 of Am. Sub. S.B. 50 of the 121st general assembly does 28962  
not release the holders of certificates of need issued under that 28963  
section from complying with any conditions on which the granting 28964  
of the certificates of need was based. 28965

**Sec. 3702.68.** (A) Notwithstanding sections 3702.51 to 3702.62 28966  
of the Revised Code, this section applies to the review of 28967  
certificate of need applications during the period beginning July 28968  
1, 1993, and ending June 30, ~~2003~~ 2005. 28969

(B)(1) Except as provided in division (B)(2) of this section, 28970  
the director of health shall neither grant nor deny any 28971  
application for a certificate of need submitted prior to July 1, 28972  
1993, if the application was for any of the following and the 28973  
director had not issued a written decision concerning the 28974  
application prior to that date: 28975

(a) Approval of beds in a new health care facility or an 28976  
increase of beds in an existing health care facility, if the beds 28977  
are proposed to be licensed as nursing home beds under Chapter 28978  
3721. of the Revised Code; 28979

(b) Approval of beds in a new county home or new county 28980  
nursing home as defined in section 5155.31 of the Revised Code, or 28981  
an increase of beds in an existing county home or existing county 28982  
nursing home, if the beds are proposed to be certified as skilled 28983  
nursing facility beds under Title XVIII or nursing facility beds 28984  
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 28985  
42 U.S.C.A. 301, as amended; 28986

(c) Recategorization of hospital beds as described in section 28987  
3702.522 of the Revised Code, an increase of hospital beds 28988  
registered pursuant to section 3701.07 of the Revised Code as 28989  
long-term care beds or skilled nursing facility beds, or a 28990  
recategorization of hospital beds that would result in an increase 28991  
of beds registered pursuant to that section as long-term care beds 28992

or skilled nursing facility beds. 28993

On July 1, 1993, the director shall return each such 28994  
application to the applicant and, notwithstanding section 3702.52 28995  
of the Revised Code regarding the uses of the certificate of need 28996  
fund, shall refund to the applicant the application fee paid under 28997  
that section. Applications returned under division (B)(1) of this 28998  
section may be resubmitted in accordance with section 3702.52 of 28999  
the Revised Code no sooner than July 1, ~~2003~~ 2005. 29000

(2) The director shall continue to review and shall issue a 29001  
decision regarding any application submitted prior to July 1, 29002  
1993, to increase beds for either of the purposes described in 29003  
division (B)(1)(a) or (b) of this section if the proposed increase 29004  
in beds is attributable solely to a replacement or relocation of 29005  
existing beds within the same county. The director shall authorize 29006  
under such an application no additional beds beyond those being 29007  
replaced or relocated. 29008

(C)(1) Except as provided in division (C)(2) of this section, 29009  
the director, during the period beginning July 1, 1993, and ending 29010  
June 30, ~~2003~~ 2005, shall not accept for review under section 29011  
3702.52 of the Revised Code any application for a certificate of 29012  
need for any of the purposes described in divisions (B)(1)(a) to 29013  
(c) of this section. 29014

(2) The director shall accept for review any application for 29015  
either of the purposes described in division (B)(1)(a) or (b) of 29016  
this section if the proposed increase in beds is attributable 29017  
solely to a replacement or relocation of existing beds within the 29018  
same county. The director shall authorize under such an 29019  
application no additional beds beyond those being replaced or 29020  
relocated. The director also shall accept for review any 29021  
application that seeks certificate of need approval for existing 29022  
beds located in an infirmary that is operated exclusively by a 29023  
religious order, provides care exclusively to members of religious 29024



orders who take vows of celibacy and live by virtue of their vows 29025  
within the orders as if related, and was providing care 29026  
exclusively to members of such a religious order on January 1, 29027  
1994. 29028

(D) The director shall issue a decision regarding any case 29029  
remanded by a court as the result of a decision issued by the 29030  
director prior to July 1, 1993, to grant, deny, or withdraw a 29031  
certificate of need for any of the purposes described in divisions 29032  
(B)(1)(a) to (c) of this section. 29033

(E) The director shall not project the need for beds listed 29034  
in division (B)(1) of this section for the period beginning July 29035  
1, 1993, and ending June 30, ~~2003~~ 2005. 29036

This section is an interim section effective until July 1, 29037  
~~2003~~ 2005. 29038

**Sec. 3702.74.** (A) A primary care physician who has signed a 29039  
letter of intent under section 3702.73 of the Revised Code, the 29040  
director of health, and the Ohio board of regents may enter into a 29041  
contract for the physician's participation in the physician loan 29042  
repayment program. A lending institution may also be a party to 29043  
the contract. 29044

(B) The contract shall include all of the following 29045  
obligations: 29046

(1) The primary care physician agrees to provide primary care 29047  
services in the health resource shortage area identified in the 29048  
letter of intent for at least two years or one year per twenty 29049  
thousand dollars of repayment agreed to under division (B)(3) of 29050  
this section, whichever is greater; 29051

(2) When providing primary care services in the health 29052  
resource shortage area, the primary care physician agrees to do 29053  
all of the following: 29054

(a) Provide primary care services for a minimum of forty hours per week;	29055 29056
(b) Provide primary care services without regard to a patient's ability to pay;	29057 29058
(c) Meet the conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the department of job and family services for participation in the medical assistance program established under Chapter 5111. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of the medical assistance program;	29059 29060 29061 29062 29063 29064 29065
(d) Meet the conditions established by the department of job and family services for participation in the disability <del>assistance</del> medical assistance program established under Chapter 5115. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of disability <u>medical</u> assistance.	29066 29067 29068 29069 29070 29071
(3) The Ohio board of regents agrees, as provided in section 3702.75 of the Revised Code, to repay, so long as the primary care physician performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the primary care physician for expenses described in section 3702.75 of the Revised Code;	29072 29073 29074 29075 29076 29077 29078
(4) The primary care physician agrees to pay the board the following as damages if the physician fails to complete the service obligation agreed to under division (B)(1) of this section:	29079 29080 29081 29082
(a) If the failure occurs during the first two years of the service obligation, three times the total amount the board has agreed to repay under division (B)(3) of this section;	29083 29084 29085

(b) If the failure occurs after the first two years of the service obligation, three times the amount the board is still obligated to repay under division (B)(3) of this section.

(C) The contract may include any other terms agreed upon by the parties, including an assignment to the Ohio board of regents of the physician's duty to pay the principal and interest of a government or other educational loan taken by the physician for expenses described in section 3702.75 of the Revised Code. If the board assumes the physician's duty to pay a loan, the contract shall set forth the total amount of principal and interest to be paid, an amortization schedule, and the amount of each payment to be made under the schedule.

**Sec. 3705.01.** As used in this chapter:

(A) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception that after such expulsion or extraction breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(B)(1) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception of at least twenty weeks of gestation, which after such expulsion or extraction does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(2) "Stillbirth" has the same meaning as "fetal death."

(3) "Stillborn" means that a child suffered a fetal death.

(C) "Dead body" means a human body or part of a human body from the condition of which it reasonably may be concluded that death recently occurred.

(D) "Physician" means a person licensed pursuant to Chapter 4731. of the Revised Code to practice medicine or surgery or osteopathic medicine and surgery.	29116 29117 29118
(E) "Attending physician" means the physician in charge of the patient's care for the illness or condition that resulted in death.	29119 29120 29121
(F) "Institution" means any establishment, public or private, that provides medical, surgical, or diagnostic care or treatment, or domiciliary care, to two or more unrelated individuals, or to persons committed by law.	29122 29123 29124 29125
(G) "Funeral director" has the meaning given in section 4717.01 of the Revised Code.	29126 29127
(H) "State registrar" means the head of the office of vital statistics in the department of health.	29128 29129
(I) "Medical certification" means completion of the medical certification portion of the certificate of death or fetal death as to the cause of death or fetal death.	29130 29131 29132
(J) "Final disposition" means the interment, cremation, removal from the state, donation, or other authorized disposition of a dead body or a fetal death.	29133 29134 29135
(K) "Interment" means the final disposition of the remains of a dead body by burial or entombment.	29136 29137
(L) "Cremation" means the reduction to ashes of a dead body.	29138
(M) "Donation" means gift of a dead body to a research institution or medical school.	29139 29140
(N) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records, the collection of other reports required by this chapter, and activities related thereto.	29141 29142 29143 29144

(O) "Vital records" means certificates or reports of birth, 29145  
death, fetal death, marriage, divorce, dissolution of marriage, 29146  
annulment, and data related thereto and other documents maintained 29147  
as required by statute. 29148

(P) "File" means the presentation of vital records for 29149  
registration by the office of vital statistics. 29150

(Q) "Registration" means the acceptance by the office of 29151  
vital statistics and the incorporation of vital records into its 29152  
official records. 29153

(R) "Birth record" means a birth certificate that has been 29154  
registered with the office of vital statistics; or, if registered 29155  
prior to the effective date of this section, with the division of 29156  
vital statistics; or, if registered prior to the establishment of 29157  
the division of vital statistics, with the department of health or 29158  
a local registrar. 29159

(S) "Certification of birth" means a document issued by the 29160  
director of health or state registrar or a local registrar under 29161  
division (B) of section 3705.23 of the Revised Code. 29162

**Sec. 3705.07.** (A) The local registrar of vital statistics 29163  
shall number consecutively the birth, fetal death, and death 29164  
certificates in three separate series, beginning with "number one" 29165  
for the first birth, the first fetal death, and the first death 29166  
registered in each calendar year. Such local registrar shall sign 29167  
the local registrar's name in attest to the date of filing in the 29168  
local office. The local registrar shall make a complete and 29169  
accurate copy of each birth, fetal death, and death certificate 29170  
registered. Each copy shall be filed and permanently preserved as 29171  
the local record of such birth, fetal death, or death except as 29172  
provided in sections 3705.09 and 3705.12 of the Revised Code. The 29173  
local record may be a typewritten, photographic, electronic, or 29174

other reproduction. On or before the tenth day of each month, the 29175  
local registrar shall transmit to the state office of vital 29176  
statistics all original birth, fetal death, death, and military 29177  
service certificates received, and all social security numbers 29178  
obtained under section 3705.09, 3705.10, or 3705.16 of the Revised 29179  
Code, during the preceding month. The local registrar shall 29180  
immediately notify the health commissioner with jurisdiction in 29181  
the registration district of the receipt of a death certificate 29182  
attesting that death resulted from a communicable disease. 29183

The office of vital statistics shall carefully examine the 29184  
records and certificates received from local registrars of vital 29185  
statistics and shall secure any further information that may be 29186  
necessary to make each record and certificate complete and 29187  
satisfactory. It shall arrange and preserve the records and 29188  
certificates, or reproductions of them produced pursuant to 29189  
section 3705.03 of the Revised Code, in a systematic manner and 29190  
shall maintain a permanent index of all births, fetal deaths, and 29191  
deaths registered, which shall show the name of the child or 29192  
deceased person, place and date of birth or death, number of the 29193  
record or certificate, and the volume in which it is contained. 29194

(B)(1) The office of vital statistics shall make available to 29195  
the division of child support in the department of job and family 29196  
services all social security numbers that were furnished to a 29197  
local registrar of vital statistics under division ~~(I)~~(J) of 29198  
section 3705.09 or under section 3705.10 or 3705.16 of the Revised 29199  
Code and that were transmitted to the office under division (A) of 29200  
this section. 29201

(2) The office of vital statistics also shall make available 29202  
to the division of child support in the department of job and 29203  
family services any other information recorded in the birth record 29204  
that may enable the division to use the social security numbers 29205  
provided under division (B)(1) of this section to obtain the 29206

location of the father of the child whose birth certificate was 29207  
accompanied by the social security number or to otherwise enforce 29208  
a child support order pertaining to that child or any other child. 29209

**Sec. 3705.08.** The director of health, by rule, shall 29210  
prescribe the form of records and certificates required by this 29211  
chapter. Records and certificates shall include the items and 29212  
information prescribed by the director, including the items 29213  
recommended by the national center for health statistics of the 29214  
United States department of health and human services, subject to 29215  
approval of and modification by the director, ~~and all.~~ All birth 29216  
certificates shall include a statement setting forth the names of 29217  
the child's parents and a line for the mother's and the father's 29218  
signature and shall include a space to indicate whether the child 29219  
was still born. 29220

The director shall prescribe methods, forms, and blanks and 29221  
shall furnish necessary postage, forms, and blanks for obtaining 29222  
registration of births, deaths, and other vital statistics in each 29223  
registration district, and for preserving the records of the 29224  
office of vital statistics, and no forms or blanks shall be used 29225  
other than those prescribed by the director. 29226

All birth, fetal death, and death records and certificates 29227  
shall be printed legibly or typewritten in unfading black ink and 29228  
signed. Except as provided in division (G) of section 3705.09, 29229  
division (A) of section 3705.12, division (D) of section 3705.15, 29230  
or section 3705.16 of the Revised Code, a signature required on a 29231  
birth, fetal death, or death certificate shall be written by the 29232  
person required to sign and a facsimile signature shall not be 29233  
used. 29234

All vital records shall contain the date received for 29235  
registration. 29236

Information required in certificates, records, or reports 29237

authorized by this chapter may be filed and registered by 29238  
photographic, electronic, or other means as prescribed by the 29239  
director. 29240

**Sec. 3705.09.** (A) A birth certificate for each live birth in 29241  
this state shall be filed in the registration district in which it 29242  
occurs within ten days after such birth and shall be registered if 29243  
it has been completed and filed in accordance with this section. 29244

(B) When a birth occurs in or en route to an institution, the 29245  
person in charge of the institution or a designated representative 29246  
shall obtain the personal data, prepare the certificate, secure 29247  
the signatures required, and file the certificate within ten days 29248  
with the local registrar of vital statistics. The physician in 29249  
attendance shall provide the medical information required by the 29250  
certificate and certify to the facts of birth within seventy-two 29251  
hours after the birth. 29252

(C) When a birth occurs outside an institution, the birth 29253  
certificate shall be prepared and filed by one of the following in 29254  
the indicated order of priority: 29255

(1) The physician in attendance at or immediately after the 29256  
birth; 29257

(2) Any other person in attendance at or immediately after 29258  
the birth; 29259

(3) The father; 29260

(4) The mother; 29261

(5) The person in charge of the premises where the birth 29262  
occurred. 29263

(D) Either of the parents of the child or other informant 29264  
shall attest to the accuracy of the personal data entered on the 29265  
birth certificate in time to permit the filing of the certificate 29266  
within the ten days prescribed in this section. 29267



(E) When a birth occurs in a moving conveyance within the 29268  
United States and the child is first removed from the conveyance 29269  
in this state, the birth shall be registered in this state and the 29270  
place where it is first removed shall be considered the place of 29271  
birth. When a birth occurs on a moving conveyance while in 29272  
international waters or air space or in a foreign country or its 29273  
air space and the child is first removed from the conveyance in 29274  
this state, the birth shall be registered in this state but the 29275  
record shall show the actual place of birth insofar as can be 29276  
determined. 29277

(F)(1) If the mother of a child was married at the time of 29278  
either conception or birth or between conception and birth, the 29279  
child shall be registered in the surname designated by the mother, 29280  
and the name of the husband shall be entered on the certificate as 29281  
the father of the child. The presumption of paternity shall be in 29282  
accordance with section 3111.03 of the Revised Code. 29283

(2) If the mother was not married at the time of conception 29284  
or birth or between conception and birth, the child shall be 29285  
registered by the surname designated by the mother. The name of 29286  
the father of such child shall also be inserted on the birth 29287  
certificate if both the mother and the father sign an 29288  
acknowledgement of paternity affidavit before the birth record has 29289  
been sent to the local registrar. If the father is not named on 29290  
the birth certificate pursuant to division (F)(1) or (2) of this 29291  
section, no other information about the father shall be entered on 29292  
the record. 29293

(G) When a man is presumed, found, or declared to be the 29294  
father of a child, according to section 2105.26, sections 3111.01 29295  
to 3111.18, former section 3111.21, or sections 3111.38 to 3111.54 29296  
of the Revised Code, or the father has acknowledged the child as 29297  
his child in an acknowledgment of paternity, and the 29298  
acknowledgment has become final pursuant to section 2151.232, 29299

3111.25, or 3111.821 of the Revised Code, and documentary evidence 29300  
of such fact is submitted to the department of health in such form 29301  
as the director may require, a new birth record shall be issued by 29302  
the department which shall have the same overall appearance as the 29303  
record which would have been issued under this section if a 29304  
marriage had occurred before the birth of such child. Where 29305  
handwriting is required to effect such appearance, the department 29306  
shall supply it. Upon the issuance of such new birth record, the 29307  
original birth record shall cease to be a public record. Except as 29308  
provided in division (C) of section 3705.091 of the Revised Code, 29309  
the original record and any documentary evidence supporting the 29310  
new registration of birth shall be placed in an envelope which 29311  
shall be sealed by the department and shall not be open to 29312  
inspection or copy unless so ordered by a court of competent 29313  
jurisdiction. 29314

The department shall then promptly forward a copy of the new 29315  
birth record to the local registrar of vital statistics of the 29316  
district in which the birth occurred, and such local registrar 29317  
shall file a copy of such new birth record along with and in the 29318  
same manner as the other copies of birth records in such local 29319  
registrar's possession. All copies of the original birth record in 29320  
the possession of the local registrar or the probate court, as 29321  
well as any and all index references to it, shall be destroyed. 29322  
Such new birth record, as well as any certified or exact copy of 29323  
it, when properly authenticated by a duly authorized person shall 29324  
be prima-facie evidence in all courts and places of the facts 29325  
stated in it. 29326

(H) When a woman who is a legal resident of this state has 29327  
given birth to a child in a foreign country that does not have a 29328  
system of registration of vital statistics, a birth record may be 29329  
filed in the office of vital statistics on evidence satisfactory 29330  
to the director of health. 29331

(I)(1) When a stillbirth occurs in or on route to an institution, the person in charge of the institution or a designated representative shall, at the request of either parent of the stillborn child, prepare a birth certificate for the child, obtain the necessary personal data, secure the required signatures, and file the certificate within ten days with the local registrar of vital statistics. The attending physician shall provide the medical information required by the certificate, indicate on the certificate that the child was stillborn, and certify to the facts of the stillbirth within seventy-two hours after the stillbirth.

(2) When a stillbirth occurs outside an institution and either parent of the stillborn child requests a birth certificate for the child, the physician or other person in attendance at or immediately after the stillbirth or a designated representative shall prepare the birth certificate, obtain the necessary personal information, and secure the required signatures. The physician or other person shall provide and certify the medical information required by the certificate within seventy-two hours after the stillbirth and indicate on the certificate that the child was stillborn. The physician, other person, or a designated representative shall file the birth certificate within ten days with the local registrar of vital statistics.

(3) Issuance of a birth certificate under this division does not affect the requirement that a fetal death certificate be completed and registered pursuant to section 3705.16 of the Revised Code.

(J) Every birth certificate filed under this section on or after July 1, 1990, shall be accompanied by all social security numbers that have been issued to the parents of the child, unless the division of child support in the department of job and family services, acting in accordance with regulations prescribed under

the "Family Support Act of 1988," 102 Stat. 2353, 42 U.S.C.A. 405, 29364  
as amended, finds good cause for not requiring that the numbers be 29365  
furnished with the certificate. The parents' social security 29366  
numbers shall not be recorded on the certificate. The local 29367  
registrar of vital statistics shall transmit the social security 29368  
numbers to the state office of vital statistics in accordance with 29369  
section 3705.07 of the Revised Code. No social security number 29370  
obtained under this division shall be used for any purpose other 29371  
than child support enforcement. 29372

**Sec. 3705.23.** (A)(1) Except as otherwise provided in this 29373  
section, the director of health, the state registrar, or a local 29374  
registrar, on receipt of a signed application and the fee 29375  
specified in section 3705.24 of the Revised Code, shall issue a 29376  
certified copy of a vital record, or of a part of a vital record, 29377  
in the director's or registrar's custody to any applicant, unless 29378  
the vital record has ceased to be a public record pursuant to 29379  
section 3705.09, 3705.11, 3705.12, or 3705.15 of the Revised Code. 29380  
The certified copy shall show the date the vital record was 29381  
registered by the local registrar. 29382

(2) A certified copy of a vital record may be made by a 29383  
mechanical, electronic, or other reproduction process. It shall be 29384  
certified as a true copy by the director, state registrar, or 29385  
local registrar who has custody of the record and shall include 29386  
the date of issuance, the name of the issuing officer, the 29387  
signature of the officer or an authorized facsimile of the 29388  
signature, and the seal of the issuing office. 29389

(3) A certified copy of a vital record or of any part of a 29390  
vital record, issued in accordance with this section, shall be 29391  
considered for all purposes the same as the original and shall be 29392  
prima-facie evidence of the facts stated in it in all courts and 29393  
places. 29394

(4)(a) Information contained in the "information for medical and health use only" section of a birth record shall not be included as part of a certified copy of the birth record unless the information specifically is requested by the individual to whose birth the record attests, either of the individual's parents or the individual's guardian, a lineal descendant, or an official of the federal or state government or of a political subdivision of the state charged by law with detecting or prosecuting crime.

(b) Except as provided in division (A)(4)(a) of this section, neither the office of vital statistics nor a local registrar shall disclose information contained in the "information for medical and health use only" section of a birth record unless a court, for good cause shown, orders disclosure of the information or the state registrar specifically authorizes release of the information for statistical or research purposes under conditions the state registrar, subject to the approval of the director of health, shall establish by rule.

(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 29427  
of birth to contain at least the name, sex, date of birth, 29428  
registration date, and place of birth of the person to whose birth 29429  
the record attests and to attest that the person's birth has been 29430  
registered. An heirloom certification of birth shall be 29431  
prima-facie evidence of the facts stated in it in all courts and 29432  
places. 29433

(C) On evidence that a birth certificate was registered 29434  
through misrepresentation or fraud, the state registrar may 29435  
withhold the issuance of a certified copy of the birth record or a 29436  
certification of birth until a court makes a determination that no 29437  
misrepresentation or fraud occurred. 29438

~~(D) Except as provided in division (A)(4)(b) of this section, 29439  
the state registrar and a local registrar, on request, shall 29440  
provide uncertified copies of vital records in accordance with 29441  
section 149.43 of the Revised Code. 29442~~

**Sec. 3705.24.** ~~(A) Except as otherwise provided in this 29443  
division or division (C) of this section, the fee for a certified 29444  
copy of a vital record or for a certification of birth shall be 29445  
seven dollars plus any fee required by section 3109.14 of the 29446  
Revised Code. Except as provided in section 3705.241 of the 29447  
Revised Code, the fee for a certified copy of a vital record or 29448  
for a certification of birth issued by the office of vital 29449  
statistics shall be an amount prescribed by the public health 29450  
council plus any fee required by section 3109.14 of the Revised 29451  
Code. The fee for a certified copy of a vital record or for a 29452  
certification of birth issued by a health district shall be an 29453  
amount prescribed in accordance with section 3709.09 of the 29454  
Revised Code plus any fee required by section 3109.14 of the 29455  
Revised Code. No certified copy of a vital record or certification 29456  
of birth shall be issued without payment of the fee unless 29457~~

~~otherwise specified by statute.~~ 29458

~~For a special search of the files and records to determine a date or place contained in a record on file, the office of vital statistics shall charge a fee of three dollars for each hour or fractional part of an hour required for the search.~~ 29459  
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~~(B)(1) The public health council shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following services provided by the state office of vital statistics:~~ 29463  
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29465  
29466

~~(a) Except as provided in division (A)(4) of this section:~~ 29467

~~(i) A certified copy of a vital record or a certification of birth;~~ 29468  
29469

~~(ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;~~ 29470  
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29472

~~(iii) A copy of a record provided pursuant to a request;~~ 29473

~~(b) Replacement of a birth certificate following an adoption, legitimation, paternity determination or acknowledgement, or court order;~~ 29474  
29475  
29476

~~(c) Filing of a delayed registration of a vital record;~~ 29477

~~(d) Amendment of a vital record that is requested later than one year after the filing date of the vital record;~~ 29478  
29479

~~(e) Any other documents or services for which the public health council considers the charging of a fee appropriate.~~ 29480  
29481

~~(2) Fees prescribed under division (A)(1)(a) of this section shall not be less than seven dollars.~~ 29482  
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~~(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fee required by section 3109.14 of the Revised Code.~~ 29484  
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(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code. 29487  
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(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics or the board of health of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used solely toward the modernization and automation of the system of vital records in this state. A board of health shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter. 29491  
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(C) Except as otherwise provided in division ~~(G)~~(H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. ~~Money~~ Except as provided in division (B) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows: 29502  
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(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. 29514  
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(2) An overpayment in excess of two dollars shall be returned 29518  
to the person who made the overpayment. 29519

~~(C)~~(D) If a local registrar is a salaried employee of a city 29520  
or a general health district, any fees the local registrar 29521  
receives pursuant to section 3705.23 of the Revised Code shall be 29522  
paid into the general fund of the city or the health fund of the 29523  
general health district. 29524

Each local registrar of vital statistics, or each health 29525  
district where the local registrar is a salaried employee of the 29526  
district, shall be entitled to a fee for each birth, fetal death, 29527  
death, or military service certificate properly and completely 29528  
made out and registered with the local registrar or district and 29529  
correctly copied and forwarded to the office of vital statistics 29530  
in accordance with the population of the primary registration 29531  
district at the last federal census. The fee for each birth, fetal 29532  
death, death, or military service certificate shall be: 29533

(1) In primary registration districts of over two hundred 29534  
fifty thousand, twenty cents; 29535

(2) In primary registration districts of over one hundred 29536  
twenty-five thousand and less than two hundred fifty thousand, 29537  
sixty cents; 29538

(3) In primary registration districts of over fifty thousand 29539  
and less than one hundred twenty-five thousand, eighty cents; 29540

(4) In primary registration districts of less than fifty 29541  
thousand, one dollar. 29542

~~(D)~~(E) The director of health shall annually certify to the 29543  
county treasurers of the several counties the number of birth, 29544  
fetal death, death, and military service certificates registered 29545  
from their respective counties with the names of the local 29546  
registrars and the amounts due each registrar and health district 29547

at the rates fixed in this section. Such amounts shall be paid by 29548  
the treasurer of the county in which the registration districts 29549  
are located. No fees shall be charged or collected by registrars 29550  
except as provided by this chapter and section 3109.14 of the 29551  
Revised Code. 29552

~~(E)~~(F) A probate judge shall be paid a fee of fifteen cents 29553  
for each certified abstract of marriage prepared and forwarded by 29554  
the probate judge to the department of health pursuant to section 29555  
3705.21 of the Revised Code. The fee shall be in addition to the 29556  
fee paid for a marriage license and shall be paid by the 29557  
applicants for the license. 29558

~~(F)~~(G) The clerk of a court of common pleas shall be paid a 29559  
fee of one dollar for each certificate of divorce, dissolution, 29560  
and annulment of marriage prepared and forwarded by the clerk to 29561  
the department pursuant to section 3705.21 of the Revised Code. 29562  
The fee for the certified abstract of divorce, dissolution, or 29563  
annulment of marriage shall be added to the court costs allowed in 29564  
these cases. 29565

~~(G)~~(H) The fee for an heirloom certification of birth issued 29566  
pursuant to division (B)(2) of section 3705.23 of the Revised Code 29567  
shall be an amount prescribed by rule by the director of health 29568  
plus any fee required by section 3109.14 of the Revised Code. In 29569  
setting the amount of the fee, the director shall establish a 29570  
surcharge in addition to an amount necessary to offset the expense 29571  
of processing heirloom certifications of birth. The fee prescribed 29572  
by the director of health pursuant to this division shall be 29573  
deposited into the state treasury to the credit of the heirloom 29574  
certification of birth fund which is hereby created. Money 29575  
credited to the fund shall be used by the office of vital 29576  
statistics to offset the expense of processing heirloom 29577  
certifications of birth. However, the money collected for the 29578  
surcharge, subject to the approval of the controlling board, shall 29579

be used for the purposes specified by the family and children 29580  
first council pursuant to section 121.37 of the Revised Code. 29581

**Sec. 3709.09.** (A) The board of health of a city or general 29582  
health district may, by rule, establish a uniform system of fees 29583  
to pay the costs of any services provided by the board. ~~Fees~~ 29584

The fee for issuance of a certified copy of a vital record or 29585  
a certification of birth shall not be less than the fee prescribed 29586  
for the same service under division (A)(1) of section 3705.24 of 29587  
the Revised Code and shall include the fees required by division 29588  
(B) of section 3705.24 and section 3109.14 of the Revised Code. 29589

Fees for services provided by the board for purposes 29590  
specified in sections 3701.344, 3711.05, 3730.03, 3733.04, 29591  
3733.25, and 3749.04 of the Revised Code shall be established in 29592  
accordance with rules adopted under division (B) of this section. 29593  
The district advisory council, in the case of a general health 29594  
district, and the legislative authority of the city, in the case 29595  
of a city health district, may disapprove any fee established by 29596  
the board of health under this division, and any such fee, as 29597  
disapproved, shall not be charged by the board of health. 29598

(B) The public health council shall adopt rules under section 29599  
111.15 of the Revised Code that establish fee categories and 29600  
uniform methodologies for use in calculating the costs of services 29601  
provided for purposes specified in sections 3701.344, 3711.05, 29602  
3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code. In 29603  
adopting the rules, the public health council shall consider 29604  
recommendations it receives from advisory boards established 29605  
either by statute or the director of health for entities subject 29606  
to the fees. 29607

(C) At least thirty days prior to establishing a fee for a 29608  
service provided by the board for a purpose specified in section 29609  
3701.344, 3711.05, 3730.03, 3733.04, 3733.25, or 3749.04 of the 29610

Revised Code, a board of health shall notify any entity that would 29611  
be affected by the proposed fee of the amount of the proposed fee. 29612

**Sec. 3710.05.** (A) Except as otherwise provided in this 29613  
chapter, no person shall engage in any asbestos hazard abatement 29614  
activities in this state unless licensed or certified pursuant to 29615  
this chapter. 29616

(B) To apply for licensure as an asbestos abatement 29617  
contractor or certification as an asbestos hazard abatement 29618  
specialist, an asbestos hazard evaluation specialist, an asbestos 29619  
hazard abatement project designer, or an asbestos hazard abatement 29620  
air-monitoring technician, a person shall do all of the following: 29621

(1) Submit a completed application to the department of 29622  
health, on a form provided by the department; 29623

(2) Pay the requisite fee as provided in division (D) of this 29624  
section; 29625

(3) Submit any other information the public health council by 29626  
rule requires. 29627

(C) The application form for a business entity or public 29628  
entity applying for an asbestos hazard abatement contractor's 29629  
license shall include all of the following: 29630

(1) A description of the protective clothing and respirators 29631  
that the public entity will use to comply with rules adopted by 29632  
the public health council and that the business entity will use to 29633  
comply with requirements of the United States occupational safety 29634  
and health administration; 29635

(2) A description of procedures the business entity or public 29636  
entity will use for the selection, utilization, handling, removal, 29637  
and disposal of clothing to prevent contamination or 29638  
recontamination of the environment and to protect the public 29639  
health from the hazards associated with exposure to asbestos; 29640

(3) The name and address of each asbestos disposal site that the business entity or public entity might use during the year;	29641 29642
(4) A description of the site decontamination procedures that the business entity or public entity will use;	29643 29644
(5) A description of the asbestos hazard abatement procedures that the business entity or public entity will use;	29645 29646
(6) A description of the procedures that the business entity or public entity will use for handling waste containing asbestos;	29647 29648
(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;	29649 29650 29651 29652
(8) A description of the final clean-up procedures that the business entity or public entity will use;	29653 29654
(9) A list of all partners, owners, and officers of the business entity along with their social security numbers;	29655 29656
(10) The federal tax identification number of the business entity or the public entity.	29657 29658
(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:	29659 29660 29661 29662 29663
(1) <del>Five</del> <u>Seven</u> hundred <del>fifty</del> dollars for asbestos hazard abatement contractors;	29664 29665
(2) <del>One</del> <u>Two</u> hundred <del>twenty-five</del> dollars for asbestos hazard abatement project designers;	29666 29667
(3) <del>Twenty-five</del> <u>Fifty</u> dollars for asbestos hazard abatement workers;	29668 29669

(4) ~~One~~ Two hundred ~~twenty-five~~ dollars for asbestos hazard abatement specialists; 29670  
29671

(5) ~~One~~ Two hundred ~~twenty-five~~ dollars for asbestos hazard evaluation specialists; and 29672  
29673

(6) ~~Seven~~ Nine hundred ~~fifty~~ dollars for approval or renewal of asbestos hazard training providers. 29674  
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(E) Notwithstanding division (A) of this section, no business entity which engages in asbestos hazard abatement activities solely at its own place of business is required to be licensed as an asbestos hazard abatement contractor provided that the business entity is required to and does comply with all applicable standards of the United States environmental protection agency and the United States occupational safety and health administration and provided further that all persons employed by the business entity on the activity meet the requirements of this chapter. 29676  
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**Sec. 3710.07.** (A) Prior to engaging in any asbestos hazard abatement project, an asbestos hazard abatement contractor shall do all of the following: 29685  
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(1) Prepare a written respiratory protection program as defined by the public health council pursuant to rule, and make the program available to the department of health, and workers at the job site if the contractor is a public entity or prepare a written respiratory protection program, consistent with 29 C.F.R. 1910.134 and make the program available to the department, and workers at the job site if the contractor is a business entity; 29688  
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(2) Ensure that each worker who will be involved in any asbestos hazard abatement project has been examined within the preceding year and has been declared by a physician to be physically capable of working while wearing a respirator; 29695  
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(3) Ensure that each of ~~his~~ the contractor's employees or 29699

agents who will come in contact with asbestos-containing materials 29700  
or will be responsible for an asbestos hazard abatement project 29701  
receives the appropriate certification or licensure required by 29702  
this chapter and the following training: 29703

(a) An initial course approved by the department pursuant to 29704  
section 3710.10 of the Revised Code, completed before engaging in 29705  
any asbestos hazard abatement project; and 29706

(b) An annual review course approved by the department 29707  
pursuant to section 3710.10 of the Revised Code. 29708

(B) After obtaining or renewing a license, an asbestos hazard 29709  
abatement contractor shall notify the department, on a form 29710  
approved by the director of health, at least ten days before 29711  
beginning each asbestos hazard abatement project conducted during 29712  
the term of ~~his~~ the contractor's license. 29713

(C) In addition to any other fee imposed under this chapter, 29714  
an asbestos hazard abatement contractor shall pay, at the time of 29715  
providing notice under division (B) of this section, the 29716  
department a fee of ~~twenty-five~~ sixty-five dollars for each 29717  
asbestos hazard abatement project conducted. 29718

**Sec. 3711.021.** For the purposes of this chapter, a maternity 29719  
hospital or lying-in hospital includes a limited maternity unit, 29720  
which is a unit in a hospital that contains no other maternity 29721  
unit, in which care is provided during all or part of the 29722  
maternity cycle and newborns receive care in a private room 29723  
serving all antepartum, labor, delivery, recovery, postpartum, and 29724  
nursery needs. 29725

The director of health may charge a maternity hospital or 29726  
lying-in hospital seeking an initial or renewal license under this 29727  
chapter a fee not exceeding the following: 29728

(A) ~~Three Four~~ three thousand ~~eight hundred fifty~~ four ~~forty-two~~ hundred dollars 29729

for a hospital in which not less than two thousand births occurred 29730  
the previous calendar year; 29731

(B) Three thousand ~~three~~ five hundred ~~fifty~~ seventeen dollars 29732  
for a hospital in which not more than one thousand nine hundred 29733  
ninety-nine and not less than one thousand births occurred the 29734  
previous calendar year; 29735

(C) Two thousand ~~eight~~ nine hundred ~~fifty~~ ninety-two dollars 29736  
for a hospital in which not more than nine hundred ninety-nine and 29737  
not less than six hundred fifty births occurred the previous 29738  
calendar year; 29739

(D) Two thousand ~~three~~ four hundred ~~fifty~~ sixty-seven dollars 29740  
for a hospital in which not more than six hundred forty-nine and 29741  
not less than four hundred fifty births occurred the previous 29742  
calendar year; 29743

(E) One thousand ~~eight~~ nine hundred ~~fifty~~ forty-two dollars 29744  
for a hospital in which not more than four hundred forty-nine 29745  
births and not less than one hundred births occurred the previous 29746  
calendar year; 29747

(F) One thousand ~~three~~ four hundred ~~fifty~~ seventeen dollars 29748  
for a hospital in which not more than ninety-nine births occurred 29749  
the previous calendar year. 29750

The director shall deposit all fees collected under this 29751  
section into the general operations fund created under section 29752  
3701.83 of the Revised Code. Money generated by the fees shall be 29753  
used only for administration and enforcement of this chapter and 29754  
rules adopted under it. 29755

**Sec. 3721.02.** (A) The director of health shall license homes 29756  
and establish procedures to be followed in inspecting and 29757  
licensing homes. The director may inspect a home at any time. Each 29758  
home shall be inspected by the director at least once prior to the 29759



issuance of a license and at least once every fifteen months 29760  
thereafter. The state fire marshal or a township, municipal, or 29761  
other legally constituted fire department approved by the marshal 29762  
shall also inspect a home prior to issuance of a license, at least 29763  
once every fifteen months thereafter, and at any other time 29764  
requested by the director. A home does not have to be inspected 29765  
prior to issuance of a license by the director, state fire 29766  
marshal, or a fire department if ownership of the home is assigned 29767  
or transferred to a different person and the home was licensed 29768  
under this chapter immediately prior to the assignment or 29769  
transfer. The director may enter at any time, for the purposes of 29770  
investigation, any institution, residence, facility, or other 29771  
structure that has been reported to the director or that the 29772  
director has reasonable cause to believe is operating as a nursing 29773  
home, residential care facility, or home for the aging without a 29774  
valid license required by section 3721.05 of the Revised Code or, 29775  
in the case of a county home or district home, is operating 29776  
despite the revocation of its residential care facility license. 29777  
The director may delegate the director's authority and duties 29778  
under this chapter to any division, bureau, agency, or official of 29779  
the department of health. 29780

(B) A single facility may be licensed both as a nursing home 29781  
pursuant to this chapter and as an adult care facility pursuant to 29782  
Chapter 3722. of the Revised Code if the director determines that 29783  
the part or unit to be licensed as a nursing home can be 29784  
maintained separate and discrete from the part or unit to be 29785  
licensed as an adult care facility. 29786

(C) In determining the number of residents in a home for the 29787  
purpose of licensing, the director shall consider all the 29788  
individuals for whom the home provides accommodations as one group 29789  
unless one of the following is the case: 29790

(1) The home is a home for the aging, in which case all the 29791

individuals in the part or unit licensed as a nursing home shall 29792  
be considered as one group, and all the individuals in the part or 29793  
unit licensed as a rest home shall be considered as another group. 29794

(2) The home is both a nursing home and an adult care 29795  
facility. In that case, all the individuals in the part or unit 29796  
licensed as a nursing home shall be considered as one group, and 29797  
all the individuals in the part or unit licensed as an adult care 29798  
facility shall be considered as another group. 29799

(3) The home maintains, in addition to a nursing home or 29800  
residential care facility, a separate and discrete part or unit 29801  
that provides accommodations to individuals who do not require or 29802  
receive skilled nursing care and do not receive personal care 29803  
services from the home, in which case the individuals in the 29804  
separate and discrete part or unit shall not be considered in 29805  
determining the number of residents in the home if the separate 29806  
and discrete part or unit is in compliance with the Ohio basic 29807  
building code established by the board of building standards under 29808  
Chapters 3781. and 3791. of the Revised Code and the home permits 29809  
the director, on request, to inspect the separate and discrete 29810  
part or unit and speak with the individuals residing there, if 29811  
they consent, to determine whether the separate and discrete part 29812  
or unit meets the requirements of this division. 29813

(D) The director of health shall charge an application fee 29814  
and an annual renewal licensing and inspection fee of one hundred 29815  
five dollars for each fifty persons or part thereof of a home's 29816  
licensed capacity. All fees collected by the director for the 29817  
issuance or renewal of licenses shall be deposited into the state 29818  
treasury to the credit of the general operations fund created in 29819  
section 3701.83 of the Revised Code for use only in administering 29820  
and enforcing this chapter and rules adopted under it. 29821

(E)(1) Except as otherwise provided in this section, the 29822  
results of an inspection or investigation of a home that is 29823

conducted under this section, including any statement of 29824  
deficiencies and all findings and deficiencies cited in the 29825  
statement on the basis of the inspection or investigation, shall 29826  
be used solely to determine the home's compliance with this 29827  
chapter or another chapter of the Revised Code in any action or 29828  
proceeding other than an action commenced under division (I) of 29829  
section 3721.17 of the Revised Code. Those results of an 29830  
inspection or investigation, that statement of deficiencies, and 29831  
the findings and deficiencies cited in that statement shall not be 29832  
used in any court or in any action or proceeding that is pending 29833  
in any court and are not admissible in evidence in any action or 29834  
proceeding unless that action or proceeding is an appeal of an 29835  
action by the department of health under this chapter or is an 29836  
action by any department or agency of the state to enforce this 29837  
chapter or another chapter of the Revised Code. 29838

(2) Nothing in division (E)(1) of this section prohibits the 29839  
results of an inspection or investigation conducted under this 29840  
section from being used in a criminal investigation or 29841  
prosecution. 29842

**Sec. 3721.121.** (A) As used in this section: 29843

(1) "Adult day-care program" means a program operated 29844  
pursuant to rules adopted by the public health council under 29845  
section 3721.04 of the Revised Code and provided by and on the 29846  
same site as homes licensed under this chapter. 29847

(2) "Applicant" means a person who is under final 29848  
consideration for employment with a home or adult day-care program 29849  
in a full-time, part-time, or temporary position that involves 29850  
providing direct care to an older adult. "Applicant" does not 29851  
include a person who provides direct care as a volunteer without 29852  
receiving or expecting to receive any form of remuneration other 29853  
than reimbursement for actual expenses. 29854

(3) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code. 29855  
29856

(4) "Home" means a home as defined in section 3721.10 of the Revised Code. 29857  
29858

(B)(1) Except as provided in division (I) of this section, 29859  
the chief administrator of a home or adult day-care program shall 29860  
request that the superintendent of the bureau of criminal 29861  
identification and investigation conduct a criminal records check 29862  
with respect to each applicant. If an applicant for whom a 29863  
criminal records check request is required under this division 29864  
does not present proof of having been a resident of this state for 29865  
the five-year period immediately prior to the date the criminal 29866  
records check is requested or provide evidence that within that 29867  
five-year period the superintendent has requested information 29868  
about the applicant from the federal bureau of investigation in a 29869  
criminal records check, the chief administrator shall request that 29870  
the superintendent obtain information from the federal bureau of 29871  
investigation as part of the criminal records check of the 29872  
applicant. Even if an applicant for whom a criminal records check 29873  
request is required under this division presents proof of having 29874  
been a resident of this state for the five-year period, the chief 29875  
administrator may request that the superintendent include 29876  
information from the federal bureau of investigation in the 29877  
criminal records check. 29878

(2) A person required by division (B)(1) of this section to 29879  
request a criminal records check shall do both of the following: 29880

(a) Provide to each applicant for whom a criminal records 29881  
check request is required under that division a copy of the form 29882  
prescribed pursuant to division (C)(1) of section 109.572 of the 29883  
Revised Code and a standard fingerprint impression sheet 29884  
prescribed pursuant to division (C)(2) of that section, and obtain 29885

the completed form and impression sheet from the applicant; 29886

(b) Forward the completed form and impression sheet to the 29887  
superintendent of the bureau of criminal identification and 29888  
investigation. 29889

(3) An applicant provided the form and fingerprint impression 29890  
sheet under division (B)(2)(a) of this section who fails to 29891  
complete the form or provide fingerprint impressions shall not be 29892  
employed in any position for which a criminal records check is 29893  
required by this section. 29894

(C)(1) Except as provided in rules adopted by the director of 29895  
health in accordance with division (F) of this section and subject 29896  
to division (C)(2) of this section, no home or adult day-care 29897  
program shall employ a person in a position that involves 29898  
providing direct care to an older adult if the person has been 29899  
convicted of or pleaded guilty to any of the following: 29900

(a) A violation of section 2903.01, 2903.02, 2903.03, 29901  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 29902  
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 29903  
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 29904  
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 29905  
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 29906  
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 29907  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 29908  
2925.22, 2925.23, or 3716.11 of the Revised Code. 29909

(b) A violation of an existing or former law of this state, 29910  
any other state, or the United States that is substantially 29911  
equivalent to any of the offenses listed in division (C)(1)(a) of 29912  
this section. 29913

(2)(a) A home or an adult day-care program may employ 29914  
conditionally an applicant for whom a criminal records check 29915  
request is required under division (B) of this section prior to 29916

obtaining the results of a criminal records check regarding the 29917  
individual, provided that the home or program shall request a 29918  
criminal records check regarding the individual in accordance with 29919  
division (B)(1) of this section not later than five business days 29920  
after the individual begins conditional employment. In the 29921  
circumstances described in division (I)(2) of this section, a home 29922  
or adult day-care program may employ conditionally an applicant 29923  
who has been referred to the home or adult day-care program by an 29924  
employment service that supplies full-time, part-time, or 29925  
temporary staff for positions involving the direct care of older 29926  
adults and for whom, pursuant to that division, a criminal records 29927  
check is not required under division (B) of this section. 29928

(b) A home or adult day-care program that employs an 29929  
individual conditionally under authority of division (C)(2)(a) of 29930  
this section shall terminate the individual's employment if the 29931  
results of the criminal records check requested under division (B) 29932  
of this section or described in division (I)(2) of this section, 29933  
other than the results of any request for information from the 29934  
federal bureau of investigation, are not obtained within the 29935  
period ending ~~sixty~~ thirty days after the date the request is 29936  
made. Regardless of when the results of the criminal records check 29937  
are obtained, if the results indicate that the individual has been 29938  
convicted of or pleaded guilty to any of the offenses listed or 29939  
described in division (C)(1) of this section, the home or program 29940  
shall terminate the individual's employment unless the home or 29941  
program chooses to employ the individual pursuant to division (F) 29942  
of this section. Termination of employment under this division 29943  
shall be considered just cause for discharge for purposes of 29944  
division (D)(2) of section 4141.29 of the Revised Code if the 29945  
individual makes any attempt to deceive the home or program about 29946  
the individual's criminal record. 29947

(D)(1) Each home or adult day-care program shall pay to the 29948

bureau of criminal identification and investigation the fee 29949  
prescribed pursuant to division (C)(3) of section 109.572 of the 29950  
Revised Code for each criminal records check conducted pursuant to 29951  
a request made under division (B) of this section. 29952

(2) A home or adult day-care program may charge an applicant 29953  
a fee not exceeding the amount the home or program pays under 29954  
division (D)(1) of this section. A home or program may collect a 29955  
fee only if both of the following apply: 29956

(a) The home or program notifies the person at the time of 29957  
initial application for employment of the amount of the fee and 29958  
that, unless the fee is paid, the person will not be considered 29959  
for employment; 29960

(b) The medical assistance program established under Chapter 29961  
5111. of the Revised Code does not reimburse the home or program 29962  
the fee it pays under division (D)(1) of this section. 29963

(E) The report of any criminal records check conducted 29964  
pursuant to a request made under this section is not a public 29965  
record for the purposes of section 149.43 of the Revised Code and 29966  
shall not be made available to any person other than the 29967  
following: 29968

(1) The individual who is the subject of the criminal records 29969  
check or the individual's representative; 29970

(2) The chief administrator of the home or program requesting 29971  
the criminal records check or the administrator's representative; 29972

(3) The administrator of any other facility, agency, or 29973  
program that provides direct care to older adults that is owned or 29974  
operated by the same entity that owns or operates the home or 29975  
program; 29976

(4) A court, hearing officer, or other necessary individual 29977  
involved in a case dealing with a denial of employment of the 29978

applicant or dealing with employment or unemployment benefits of 29979  
the applicant; 29980

(5) Any person to whom the report is provided pursuant to, 29981  
and in accordance with, division (I)(1) or (2) of this section. 29982

(F) In accordance with section 3721.11 of the Revised Code, 29983  
the director of health shall adopt rules to implement this 29984  
section. The rules shall specify circumstances under which a home 29985  
or adult day-care program may employ a person who has been 29986  
convicted of or pleaded guilty to an offense listed or described 29987  
in division (C)(1) of this section but meets personal character 29988  
standards set by the director. 29989

(G) The chief administrator of a home or adult day-care 29990  
program shall inform each individual, at the time of initial 29991  
application for a position that involves providing direct care to 29992  
an older adult, that the individual is required to provide a set 29993  
of fingerprint impressions and that a criminal records check is 29994  
required to be conducted if the individual comes under final 29995  
consideration for employment. 29996

(H) In a tort or other civil action for damages that is 29997  
brought as the result of an injury, death, or loss to person or 29998  
property caused by an individual who a home or adult day-care 29999  
program employs in a position that involves providing direct care 30000  
to older adults, all of the following shall apply: 30001

(1) If the home or program employed the individual in good 30002  
faith and reasonable reliance on the report of a criminal records 30003  
check requested under this section, the home or program shall not 30004  
be found negligent solely because of its reliance on the report, 30005  
even if the information in the report is determined later to have 30006  
been incomplete or inaccurate; 30007

(2) If the home or program employed the individual in good 30008  
faith on a conditional basis pursuant to division (C)(2) of this 30009



section, the home or program shall not be found negligent solely 30010  
because it employed the individual prior to receiving the report 30011  
of a criminal records check requested under this section; 30012

(3) If the home or program in good faith employed the 30013  
individual according to the personal character standards 30014  
established in rules adopted under division (F) of this section, 30015  
the home or program shall not be found negligent solely because 30016  
the individual prior to being employed had been convicted of or 30017  
pleaded guilty to an offense listed or described in division 30018  
(C)(1) of this section. 30019

(I)(1) The chief administrator of a home or adult day-care 30020  
program is not required to request that the superintendent of the 30021  
bureau of criminal identification and investigation conduct a 30022  
criminal records check of an applicant if the applicant has been 30023  
referred to the home or program by an employment service that 30024  
supplies full-time, part-time, or temporary staff for positions 30025  
involving the direct care of older adults and both of the 30026  
following apply: 30027

(a) The chief administrator receives from the employment 30028  
service or the applicant a report of the results of a criminal 30029  
records check regarding the applicant that has been conducted by 30030  
the superintendent within the one-year period immediately 30031  
preceding the applicant's referral; 30032

(b) The report of the criminal records check demonstrates 30033  
that the person has not been convicted of or pleaded guilty to an 30034  
offense listed or described in division (C)(1) of this section, or 30035  
the report demonstrates that the person has been convicted of or 30036  
pleaded guilty to one or more of those offenses, but the home or 30037  
adult day-care program chooses to employ the individual pursuant 30038  
to division (F) of this section. 30039

(2) The chief administrator of a home or adult day-care 30040

program is not required to request that the superintendent of the 30041  
bureau of criminal identification and investigation conduct a 30042  
criminal records check of an applicant and may employ the 30043  
applicant conditionally as described in this division, if the 30044  
applicant has been referred to the home or program by an 30045  
employment service that supplies full-time, part-time, or 30046  
temporary staff for positions involving the direct care of older 30047  
adults and if the chief administrator receives from the employment 30048  
service or the applicant a letter from the employment service that 30049  
is on the letterhead of the employment service, dated, and signed 30050  
by a supervisor or another designated official of the employment 30051  
service and that states that the employment service has requested 30052  
the superintendent to conduct a criminal records check regarding 30053  
the applicant, that the requested criminal records check will 30054  
include a determination of whether the applicant has been 30055  
convicted of or pleaded guilty to any offense listed or described 30056  
in division (C)(1) of this section, that, as of the date set forth 30057  
on the letter, the employment service had not received the results 30058  
of the criminal records check, and that, when the employment 30059  
service receives the results of the criminal records check, it 30060  
promptly will send a copy of the results to the home or adult-care 30061  
program. If a home or adult day-care program employs an applicant 30062  
conditionally in accordance with this division, the employment 30063  
service, upon its receipt of the results of the criminal records 30064  
check, promptly shall send a copy of the results to the home or 30065  
adult day-care program, and division (C)(2)(b) of this section 30066  
applies regarding the conditional employment. 30067

**Sec. 3721.19.** (A) As used in this section: 30068

(1) "Home" and "residential care facility" have the same 30069  
meanings as in section 3721.01 of the Revised Code; 30070

(2) "Sponsor" and "residents' rights advocate" have the same 30071

meanings as in section 3721.10 of the Revised Code. 30072

A home licensed under this chapter that is not a party to a 30073  
provider agreement, as defined in section 5111.20 of the Revised 30074  
Code, shall provide each prospective resident, before admission, 30075  
with the following information, orally and in a separate written 30076  
notice on which is printed in a conspicuous manner: "This home is 30077  
not a participant in the medical assistance program administered 30078  
by the Ohio department of job and family services. Consequently, 30079  
you may be discharged from this home if you are unable to pay for 30080  
the services provided by this home." 30081

If the prospective resident has a sponsor whose identity is 30082  
made known to the home, the home shall also inform the sponsor, 30083  
before admission of the resident, of the home's status relative to 30084  
the medical assistance program. Written acknowledgement of the 30085  
receipt of the information shall be provided by the resident and, 30086  
if the prospective resident has a sponsor who has been identified 30087  
to the home, by the sponsor. The written acknowledgement shall be 30088  
made part of the resident's record by the home. 30089

No home shall terminate its status as a provider under the 30090  
medical assistance program unless it has complied with section 30091  
5111.66 of the Revised Code and, at least ninety days prior to 30092  
such termination, provided written notice to the ~~department of job~~ 30093  
~~and family services and~~ residents of the home and their sponsors 30094  
of such action. This requirement shall not apply in cases where 30095  
the department of job and family services terminates a home's 30096  
provider agreement or provider status. 30097

(B) A home licensed under this chapter as a residential care 30098  
facility shall provide notice to each prospective resident or the 30099  
individual's sponsor of the services offered by the facility and 30100  
the types of skilled nursing care that the facility may provide. A 30101  
residential care facility that, pursuant to section 3721.012 of 30102  
the Revised Code, has a policy of entering into risk agreements 30103

with residents or their sponsors shall provide each prospective 30104  
resident or the individual's sponsor a written explanation of the 30105  
policy and the provisions that may be contained in a risk 30106  
agreement. At the time the information is provided, the facility 30107  
shall obtain a statement signed by the individual receiving the 30108  
information acknowledging that the individual received the 30109  
information. The facility shall maintain on file the individual's 30110  
signed statement. 30111

(C) A resident has a cause of action against a home for 30112  
breach of any duty imposed by this section. The action may be 30113  
commenced by the resident, or on the resident's behalf by the 30114  
resident's sponsor or a residents' rights advocate, by the filing 30115  
of a civil action in the court of common pleas of the county in 30116  
which the home is located, or in the court of common pleas of 30117  
Franklin county. 30118

If the court finds that a breach of any duty imposed by this 30119  
section has occurred, the court shall enjoin the home from 30120  
discharging the resident from the home until arrangements 30121  
satisfactory to the court are made for the orderly transfer of the 30122  
resident to another mode of health care including, but not limited 30123  
to, another home, and may award the resident and a person or 30124  
public agency that brings an action on behalf of a resident 30125  
reasonable attorney's fees. If a home discharges a resident to 30126  
whom or to whose sponsor information concerning its status 30127  
relative to the medical assistance program was not provided as 30128  
required under this section, the court shall grant any appropriate 30129  
relief including, but not limited to, actual damages, reasonable 30130  
attorney's fees, and costs. 30131

**Sec. 3721.51.** The department of job and family services 30132  
shall: 30133

(A) For the purposes specified in section 3721.56 of the 30134

Revised Code, determine an annual franchise permit fee on each 30135  
nursing home in an amount equal to three dollars and thirty cents 30136  
for fiscal year 2002, four dollars and thirty cents for fiscal 30137  
~~years year 2003 through, four dollars and seventy-five cents for~~ 30138  
fiscal year 2004, four dollars and ninety-five cents for fiscal 30139  
year 2005, and one dollar for each fiscal year thereafter, 30140  
multiplied by the product of the following: 30141

(1) The number of beds licensed as nursing home beds, plus 30142  
any other beds certified as skilled nursing facility beds under 30143  
Title XVIII or nursing facility beds under Title XIX of the 30144  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 30145  
amended, on July 1, 1993, and, for each subsequent year, the first 30146  
day of May of the calendar year in which the fee is determined 30147  
pursuant to division (A) of section 3721.53 of the Revised Code; 30148

(2) The number of days in fiscal year 1994 and, for each 30149  
subsequent year, the number of days in the fiscal year beginning 30150  
on the first day of July of the calendar year in which the fee is 30151  
determined pursuant to division (A) of section 3721.53 of the 30152  
Revised Code. 30153

(B) For the purposes specified in section 3721.56 of the 30154  
Revised Code, determine an annual franchise permit fee on each 30155  
hospital in an amount equal to three dollars and thirty cents for 30156  
fiscal year 2002, four dollars and thirty cents for fiscal ~~years~~ 30157  
~~year 2003 through, four dollars and seventy-five cents for fiscal~~ 30158  
year 2004, four dollars and ninety-five cents for fiscal year 30159  
2005, and one dollar for each fiscal year thereafter, multiplied 30160  
by the product of the following: 30161

(1) The number of beds registered pursuant to section 3701.07 30162  
of the Revised Code as skilled nursing facility beds or long-term 30163  
care beds, plus any other beds licensed as nursing home beds under 30164  
section 3721.02 or 3721.09 of the Revised Code, on July 1, 1993, 30165  
and, for each subsequent year, the first day of May of the 30166

calendar year in which the fee is determined pursuant to division 30167  
(A) of section 3721.53 of the Revised Code; 30168

(2) The number of days in fiscal year 1994 and, for each 30169  
subsequent year, the number of days in the fiscal year beginning 30170  
on the first day of July of the calendar year in which the fee is 30171  
determined pursuant to division (A) of section 3721.53 of the 30172  
Revised Code. 30173

If the United States centers for medicare and medicaid 30174  
services determines that the franchise permit fee established by 30175  
sections 3721.50 to 3721.58 of the Revised Code would be an 30176  
impermissible health care related tax under section 1903(w) of the 30177  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 30178  
amended, the department of job and family services shall take all 30179  
necessary actions to cease implementation of those sections in 30180  
accordance with rules adopted under section 3721.58 of the Revised 30181  
Code. 30182

**Sec. 3721.56.** (A) Thirty and three-tenths per cent of all 30183  
payments and penalties paid by nursing homes and hospitals under 30184  
sections 3721.53 and 3721.54 of the Revised Code for fiscal year 30185  
2002, twenty-three and twenty-six-hundredths per cent of such 30186  
payments and penalties paid for fiscal ~~years year~~ 2003 ~~through,~~ 30187  
twenty-one and five-hundredths per cent of such payments and 30188  
penalties paid for fiscal year 2004, twenty and two-tenths per 30189  
cent of such payments and penalties paid for fiscal year 2005, and 30190  
all such payments and penalties paid for subsequent fiscal years, 30191  
shall be deposited into the "home and community-based services for 30192  
the aged fund," which is hereby created in the state treasury. The 30193  
departments of job and family services and aging shall use the 30194  
moneys in the fund to fund the following in accordance with rules 30195  
adopted under section 3721.58 of the Revised Code: 30196

(1) The ~~medical assistance~~ medicaid program established under 30197

Chapter 5111. of the Revised Code;	30198
(2) The PASSPORT program established under section 173.40 of the Revised Code;	30199 30200
(3) The residential state supplement program established under section 173.35 of the Revised Code.	30201 30202
(B) Sixty-nine and seven-tenths per cent of all payments and penalties paid by nursing homes and hospitals under sections 3721.53 and 3721.54 of the Revised Code for fiscal year 2002, and seventy-six and seventy-four-hundredths per cent of such payments and penalties paid for fiscal <del>years year</del> 2003 <del>through</del> , <u>seventy-eight and ninety-five hundredths per cent of such payments and penalties paid for fiscal year 2004, and seventy-nine and eight-tenths per cent of such payments and penalties paid for fiscal year 2005</u> , shall be deposited into the nursing facility stabilization fund, which is hereby created in the state treasury. The department of job and family services shall use the money in the fund <del>in the manner provided by Am. Sub. H.B. 94 and Am. Sub. S.B. 261 of the 124th general assembly to make payments to nursing facilities under the medicaid program.</del>	30203 30204 30205 30206 30207 30208 30209 30210 30211 30212 30213 30214 30215 30216
<u>Sec. 3721.561. Any money remaining in the nursing facility stabilization fund created under section 3721.56 of the Revised Code after payments specified in division (B) of that section are made for fiscal years 2002 through 2005 shall be retained in the fund. Any interest or other investment proceeds earned on money in the fund shall be credited to the fund and used to make payments in accordance with division (B) of section 3721.56 of the Revised Code.</u>	30217 30218 30219 30220 30221 30222 30223 30224
<b>Sec. 3722.151.</b> (A) As used in this section:	30225
(1) "Adult care facility" has the same meaning as in section 3722.01 of the Revised Code.	30226 30227

(2) "Applicant" means a person who is under final consideration for employment with an adult care facility in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the chief administrator of an adult care facility 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 criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:



(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the public health council in accordance with division (F) of this section and subject to division (C)(2) of this section, no adult care facility shall employ a person in a position that involves providing direct care to an older adult if the person 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, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 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, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code.

(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 (C)(1)(a) of this section. 30290  
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(2)(a) An adult care facility may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the facility shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, an adult care facility may employ conditionally an applicant who has been referred to the adult care facility by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section. 30292  
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(b) An adult care facility that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending ~~sixty~~ thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the facility shall terminate the individual's employment unless the facility chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause 30307  
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for discharge for purposes of division (D)(2) of section 4141.29 30322  
of the Revised Code if the individual makes any attempt to deceive 30323  
the facility about the individual's criminal record. 30324

(D)(1) Each adult care facility shall pay to the bureau of 30325  
criminal identification and investigation the fee prescribed 30326  
pursuant to division (C)(3) of section 109.572 of the Revised Code 30327  
for each criminal records check conducted pursuant to a request 30328  
made under division (B) of this section. 30329

(2) An adult care facility may charge an applicant a fee not 30330  
exceeding the amount the facility pays under division (D)(1) of 30331  
this section. A facility may collect a fee only if it notifies the 30332  
person at the time of initial application for employment of the 30333  
amount of the fee and that, unless the fee is paid, the person 30334  
will not be considered for employment. 30335

(E) The report of any criminal records check conducted 30336  
pursuant to a request made under this section is not a public 30337  
record for the purposes of section 149.43 of the Revised Code and 30338  
shall not be made available to any person other than the 30339  
following: 30340

(1) The individual who is the subject of the criminal records 30341  
check or the individual's representative; 30342

(2) The chief administrator of the facility requesting the 30343  
criminal records check or the administrator's representative; 30344

(3) The administrator of any other facility, agency, or 30345  
program that provides direct care to older adults that is owned or 30346  
operated by the same entity that owns or operates the adult care 30347  
facility; 30348

(4) A court, hearing officer, or other necessary individual 30349  
involved in a case dealing with a denial of employment of the 30350  
applicant or dealing with employment or unemployment benefits of 30351  
the applicant; 30352

(5) Any person to whom the report is provided pursuant to, 30353  
and in accordance with, division (I)(1) or (2) of this section. 30354

(F) The public health council shall adopt rules in accordance 30355  
with Chapter 119. of the Revised Code to implement this section. 30356  
The rules shall specify circumstances under which an adult care 30357  
facility may employ a person who has been convicted of or pleaded 30358  
guilty to an offense listed or described in division (C)(1) of 30359  
this section but meets personal character standards set by the 30360  
council. 30361

(G) The chief administrator of an adult care facility shall 30362  
inform each individual, at the time of initial application for a 30363  
position that involves providing direct care to an older adult, 30364  
that the individual is required to provide a set of fingerprint 30365  
impressions and that a criminal records check is required to be 30366  
conducted if the individual comes under final consideration for 30367  
employment. 30368

(H) In a tort or other civil action for damages that is 30369  
brought as the result of an injury, death, or loss to person or 30370  
property caused by an individual who an adult care facility 30371  
employs in a position that involves providing direct care to older 30372  
adults, all of the following shall apply: 30373

(1) If the facility employed the individual in good faith and 30374  
reasonable reliance on the report of a criminal records check 30375  
requested under this section, the facility shall not be found 30376  
negligent solely because of its reliance on the report, even if 30377  
the information in the report is determined later to have been 30378  
incomplete or inaccurate; 30379

(2) If the facility employed the individual in good faith on 30380  
a conditional basis pursuant to division (C)(2) of this section, 30381  
the facility shall not be found negligent solely because it 30382  
employed the individual prior to receiving the report of a 30383

criminal records check requested under this section; 30384

(3) If the facility in good faith employed the individual 30385  
according to the personal character standards established in rules 30386  
adopted under division (F) of this section, the facility shall not 30387  
be found negligent solely because the individual prior to being 30388  
employed had been convicted of or pleaded guilty to an offense 30389  
listed or described in division (C)(1) of this section. 30390

(I)(1) The chief administrator of an adult care facility is 30391  
not required to request that the superintendent of the bureau of 30392  
criminal identification and investigation conduct a criminal 30393  
records check of an applicant if the applicant has been referred 30394  
to the facility by an employment service that supplies full-time, 30395  
part-time, or temporary staff for positions involving the direct 30396  
care of older adults and both of the following apply: 30397

(a) The chief administrator receives from the employment 30398  
service or the applicant a report of the results of a criminal 30399  
records check regarding the applicant that has been conducted by 30400  
the superintendent within the one-year period immediately 30401  
preceding the applicant's referral; 30402

(b) The report of the criminal records check demonstrates 30403  
that the person has not been convicted of or pleaded guilty to an 30404  
offense listed or described in division (C)(1) of this section, or 30405  
the report demonstrates that the person has been convicted of or 30406  
pleaded guilty to one or more of those offenses, but the adult 30407  
care facility chooses to employ the individual pursuant to 30408  
division (F) of this section. 30409

(2) The chief administrator of an adult care facility is not 30410  
required to request that the superintendent of the bureau of 30411  
criminal identification and investigation conduct a criminal 30412  
records check of an applicant and may employ the applicant 30413  
conditionally as described in this division, if the applicant has 30414

been referred to the facility by an employment service that 30415  
supplies full-time, part-time, or temporary staff for positions 30416  
involving the direct care of older adults and if the chief 30417  
administrator receives from the employment service or the 30418  
applicant a letter from the employment service that is on the 30419  
letterhead of the employment service, dated, and signed by a 30420  
supervisor or another designated official of the employment 30421  
service and that states that the employment service has requested 30422  
the superintendent to conduct a criminal records check regarding 30423  
the applicant, that the requested criminal records check will 30424  
include a determination of whether the applicant has been 30425  
convicted of or pleaded guilty to any offense listed or described 30426  
in division (C)(1) of this section, that, as of the date set forth 30427  
on the letter, the employment service had not received the results 30428  
of the criminal records check, and that, when the employment 30429  
service receives the results of the criminal records check, it 30430  
promptly will send a copy of the results to the adult care 30431  
facility. If an adult care facility employs an applicant 30432  
conditionally in accordance with this division, the employment 30433  
service, upon its receipt of the results of the criminal records 30434  
check, promptly shall send a copy of the results to the adult care 30435  
facility, and division (C)(2)(b) of this section applies regarding 30436  
the conditional employment. 30437

**Sec. 3733.43.** (A) Except as otherwise provided in this 30438  
division, prior to the fifteenth day of April in each year, every 30439  
person who intends to operate an agricultural labor camp shall 30440  
make application to the licenser for a license to operate such 30441  
camp, effective for the calendar year in which it is issued. The 30442  
licenser may accept an application on or after the fifteenth day 30443  
of April. The license fees specified in this division shall be 30444  
submitted to the licenser with the application for a license. No 30445  
agricultural labor camp shall be operated in this state without a 30446

license. Any person operating an agricultural labor camp without a 30447  
current and valid agricultural labor camp license is not excepted 30448  
from compliance with sections 3733.41 to 3733.49 of the Revised 30449  
Code by holding a valid and current hotel license. Each person 30450  
proposing to open an agricultural labor camp shall submit with the 30451  
application for a license any plans required by any rule adopted 30452  
under section 3733.42 of the Revised Code. The annual license fee 30453  
is ~~twenty~~ seventy-five dollars, unless the application for a 30454  
license is made on or after the fifteenth day of April, in which 30455  
case the annual license fee is ~~forty~~ one hundred dollars. An 30456  
additional fee of ~~three~~ ten dollars per housing unit per year 30457  
shall be assessed to defray the costs of enforcing sections 30458  
3733.41 to 3733.49 of the Revised Code, unless the application for 30459  
a license is made on or after the fifteenth day of April, in which 30460  
case an additional fee of ~~six~~ fifteen dollars per housing unit 30461  
shall be assessed. All fees collected under this division shall be 30462  
deposited in the state treasury to the credit of the general 30463  
operations fund created in section 3701.83 of the Revised Code and 30464  
shall be used for the administration and enforcement of sections 30465  
3733.41 to 3733.49 of the Revised Code and rules adopted 30466  
thereunder. 30467

(B) Any license under this section may be denied, suspended, 30468  
or revoked by the licensor for violation of sections 3733.41 to 30469  
3733.49 of the Revised Code or the rules adopted thereunder. 30470  
Unless there is an immediate serious public health hazard, no 30471  
denial, suspension, or revocation of a license shall be made 30472  
effective until the person operating the agricultural labor camp 30473  
has been given notice in writing of the specific violations and a 30474  
reasonable time to make corrections. When the licensor determines 30475  
that an immediate serious public health hazard exists, ~~he~~ the 30476  
licensor shall issue an order denying or suspending the license 30477  
without a prior hearing. 30478

(C) All proceedings under this section are subject to Chapter 30479  
119. of the Revised Code except as provided in section 3733.431 of 30480  
the Revised Code. 30481

(D) Every occupant of an agricultural labor camp shall keep 30482  
that part of the dwelling unit, and premises thereof, that ~~he~~ the 30483  
occupant occupies and controls in a clean and sanitary condition. 30484

**Sec. 3733.45.** (A) The licensor shall inspect all agricultural 30485  
labor camps and shall require compliance with sections 3733.41 to 30486  
3733.49 of the Revised Code and the rules adopted thereunder prior 30487  
to the issuance of a license. Upon receipt of a complaint from the 30488  
migrant agricultural ~~ombudsman~~ ombudsperson or upon the basis of a 30489  
licensor's own information that an agricultural labor camp is 30490  
operating without a license, the licensor shall inspect the camp. 30491  
If the camp is operating without a license, the licensor shall 30492  
require the camp to comply with sections 3733.41 to 3733.49 of the 30493  
Revised Code and the rules adopted under those sections. No 30494  
license shall be issued unless results of water supply tests 30495  
indicate that the water supply meets required standards or if any 30496  
violations exist concerning sanitation, drainage, or habitability 30497  
of housing units. 30498

(B) The licensor shall, upon issuance of each license, 30499  
distribute posters containing the toll-free telephone number of 30500  
the migrant agricultural ~~ombudsman~~ ombudsperson established in 30501  
section 3733.49 of the Revised Code and information in English and 30502  
Spanish describing the purpose of the ~~ombudsman's~~ ombudsperson's 30503  
office, as provided in that section. The licensor shall provide at 30504  
least two posters to the licensee, one for ~~his~~ the licensee's 30505  
personal use and at least one that shall be posted in a 30506  
conspicuous place within the camp. 30507

(C) The licensor may, upon proper identification to the 30508  
operator or ~~his~~ the operator's agent, enter on any property or 30509



into any structure at any reasonable time for the purpose of 30510  
making inspections required by this section. 30511

The licensor shall make at least one inspection prior to 30512  
~~licensing, and at least two inspections during occupancy of the~~ 30513  
~~camp, at least one of which shall be an unannounced evening~~ 30514  
~~inspection conducted after five p.m. The licensor shall determine~~ 30515  
~~and record housing unit occupancy during each evening inspection.~~ 30516  
The licensor shall make such other inspections as ~~he~~ the licensor 30517  
considers necessary to enforce sections 3733.41 to 3733.49 of the 30518  
Revised Code adequately. 30519

(D) Any plans submitted to the licensor shall be in 30520  
compliance with rules adopted pursuant to section 3733.42 of the 30521  
Revised Code and shall be approved or disapproved within thirty 30522  
days after they are filed. 30523

~~(E) All designees of the licensor who conduct inspections in~~ 30524  
~~the evening in accordance with this section shall speak both~~ 30525  
~~English and Spanish fluently. At least one member of the permanent~~ 30526  
~~staff assigned to conduct inspections in accordance with this~~ 30527  
~~section shall speak both English and Spanish fluently.~~ 30528

~~(F)~~ The licensor shall issue an annual report that shall 30529  
accurately reflect the results of that year's inspections, 30530  
including, but not limited to, numbers of ~~pre and post occupancy~~ 30531  
inspections, number of violations found, and action taken in 30532  
regard to violations. The report shall also include an assessment 30533  
of any problems found in that year and proposed solutions for 30534  
them. 30535

**Sec. 3734.02.** (A) The director of environmental protection, 30536  
in accordance with Chapter 119. of the Revised Code, shall adopt 30537  
and may amend, suspend, or rescind rules having uniform 30538  
application throughout the state governing solid waste facilities 30539  
and the inspections of and issuance of permits and licenses for 30540

all solid waste facilities in order to ensure that the facilities 30541  
will be located, maintained, and operated, and will undergo 30542  
closure and post-closure care, in a sanitary manner so as not to 30543  
create a nuisance, cause or contribute to water pollution, create 30544  
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 30545  
257.3-8, as amended. The rules may include, without limitation, 30546  
financial assurance requirements for closure and post-closure care 30547  
and corrective action and requirements for taking corrective 30548  
action in the event of the surface or subsurface discharge or 30549  
migration of explosive gases or leachate from a solid waste 30550  
facility, or of ground water contamination resulting from the 30551  
transfer or disposal of solid wastes at a facility, beyond the 30552  
boundaries of any area within a facility that is operating or is 30553  
undergoing closure or post-closure care where solid wastes were 30554  
disposed of or are being disposed of. The rules shall not concern 30555  
or relate to personnel policies, salaries, wages, fringe benefits, 30556  
or other conditions of employment of employees of persons owning 30557  
or operating solid waste facilities. The director, in accordance 30558  
with Chapter 119. of the Revised Code, shall adopt and may amend, 30559  
suspend, or rescind rules governing the issuance, modification, 30560  
revocation, suspension, or denial of variances from the director's 30561  
solid waste rules, including, without limitation, rules adopted 30562  
under this chapter governing the management of scrap tires. 30563

Variances shall be issued, modified, revoked, suspended, or 30564  
rescinded in accordance with this division, rules adopted under 30565  
it, and Chapter 3745. of the Revised Code. The director may order 30566  
the person to whom a variance is issued to take such action within 30567  
such time as the director may determine to be appropriate and 30568  
reasonable to prevent the creation of a nuisance or a hazard to 30569  
the public health or safety or the environment. Applications for 30570  
variances shall contain such detail plans, specifications, and 30571  
information regarding objectives, procedures, controls, and other 30572  
pertinent data as the director may require. The director shall 30573

grant a variance only if the applicant demonstrates to the 30574  
director's satisfaction that construction and operation of the 30575  
solid waste facility in the manner allowed by the variance and any 30576  
terms or conditions imposed as part of the variance will not 30577  
create a nuisance or a hazard to the public health or safety or 30578  
the environment. In granting any variance, the director shall 30579  
state the specific provision or provisions whose terms are to be 30580  
varied and also shall state specific terms or conditions imposed 30581  
upon the applicant in place of the provision or provisions. The 30582  
director may hold a public hearing on an application for a 30583  
variance or renewal of a variance at a location in the county 30584  
where the operations that are the subject of the application for 30585  
the variance are conducted. The director shall give not less than 30586  
twenty days' notice of the hearing to the applicant by certified 30587  
mail and shall publish at least one notice of the hearing in a 30588  
newspaper with general circulation in the county where the hearing 30589  
is to be held. The director shall make available for public 30590  
inspection at the principal office of the environmental protection 30591  
agency a current list of pending applications for variances and a 30592  
current schedule of pending variance hearings. The director shall 30593  
make a complete stenographic record of testimony and other 30594  
evidence submitted at the hearing. Within ten days after the 30595  
hearing, the director shall make a written determination to issue, 30596  
renew, or deny the variance and shall enter the determination and 30597  
the basis for it into the record of the hearing. The director 30598  
shall issue, renew, or deny an application for a variance or 30599  
renewal of a variance within six months of the date upon which the 30600  
director receives a complete application with all pertinent 30601  
information and data required. No variance shall be issued, 30602  
revoked, modified, or denied until the director has considered the 30603  
relative interests of the applicant, other persons and property 30604  
affected by the variance, and the general public. Any variance 30605  
granted under this division shall be for a period specified by the 30606

director and may be renewed from time to time on such terms and 30607  
for such periods as the director determines to be appropriate. No 30608  
application shall be denied and no variance shall be revoked or 30609  
modified without a written order stating the findings upon which 30610  
the denial, revocation, or modification is based. A copy of the 30611  
order shall be sent to the applicant or variance holder by 30612  
certified mail. 30613

(B) The director shall prescribe and furnish the forms 30614  
necessary to administer and enforce this chapter. The director may 30615  
cooperate with and enter into agreements with other state, local, 30616  
or federal agencies to carry out the purposes of this chapter. The 30617  
director may exercise all incidental powers necessary to carry out 30618  
the purposes of this chapter. 30619

The director may use moneys in the infectious waste 30620  
management fund created in section 3734.021 of the Revised Code 30621  
exclusively for administering and enforcing the provisions of this 30622  
chapter governing the management of infectious wastes. Of each 30623  
registration and renewal fee collected under rules adopted under 30624  
division (A)(2)(a) of section 3734.021 or under section 3734.022 30625  
of the Revised Code, the director, within forty-five days of its 30626  
receipt, shall remit from the fund one-half of the fee received to 30627  
the board of health of the health district in which the registered 30628  
premises is located, or, in the instance of an infectious wastes 30629  
transporter, to the board of health of the health district in 30630  
which the transporter's principal place of business is located. 30631  
However, if the board of health having jurisdiction over a 30632  
registrant's premises or principal place of business is not on the 30633  
approved list under section 3734.08 of the Revised Code, the 30634  
director shall not make that payment to the board of health. 30635

(C) Except as provided in this division and divisions (N)(2) 30636  
and (3) of this section, no person shall establish a new solid 30637  
waste facility or infectious waste treatment facility, or modify 30638

an existing solid waste facility or infectious waste treatment 30639  
facility, without submitting an application for a permit with 30640  
accompanying detail plans, specifications, and information 30641  
regarding the facility and method of operation and receiving a 30642  
permit issued by the director, except that no permit shall be 30643  
required under this division to install or operate a solid waste 30644  
facility for sewage sludge treatment or disposal when the 30645  
treatment or disposal is authorized by a current permit issued 30646  
under Chapter 3704. or 6111. of the Revised Code. 30647

No person shall continue to operate a solid waste facility 30648  
for which the director has denied a permit for which an 30649  
application was required under division (A)(3) of section 3734.05 30650  
of the Revised Code, or for which the director has disapproved 30651  
plans and specifications required to be filed by an order issued 30652  
under division (A)(5) of that section, after the date prescribed 30653  
for commencement of closure of the facility in the order issued 30654  
under division (A)(6) of section 3734.05 of the Revised Code 30655  
denying the permit application or approval. 30656

On and after the effective date of the rules adopted under 30657  
division (A) of this section and division (D) of section 3734.12 30658  
of the Revised Code governing solid waste transfer facilities, no 30659  
person shall establish a new, or modify an existing, solid waste 30660  
transfer facility without first submitting an application for a 30661  
permit with accompanying engineering detail plans, specifications, 30662  
and information regarding the facility and its method of operation 30663  
to the director and receiving a permit issued by the director. 30664

No person shall establish a new compost facility or continue 30665  
to operate an existing compost facility that accepts exclusively 30666  
source separated yard wastes without submitting a completed 30667  
registration for the facility to the director in accordance with 30668  
rules adopted under divisions (A) and (N)(3) of this section. 30669

This division does not apply to an infectious waste treatment 30670

facility that meets any of the following conditions: 30671

(1) Is owned or operated by the generator of the wastes and 30672  
exclusively treats, by methods, techniques, and practices 30673  
established by rules adopted under division (C)(1) or (3) of 30674  
section 3734.021 of the Revised Code, wastes that are generated at 30675  
any premises owned or operated by that generator regardless of 30676  
whether the wastes are generated on the premises where the 30677  
generator's treatment facility is located or, if the generator is 30678  
a hospital as defined in section 3727.01 of the Revised Code, 30679  
infectious wastes that are described in division (A)(1)(g), (h), 30680  
or (i) of section 3734.021 of the Revised Code; 30681

(2) Holds a license or renewal of a license to operate a 30682  
crematory facility issued under Chapter 4717. and a permit issued 30683  
under Chapter 3704. of the Revised Code; 30684

(3) Treats or disposes of dead animals or parts thereof, or 30685  
the blood of animals, and is subject to any of the following: 30686

(a) Inspection under the "Federal Meat Inspection Act," 81 30687  
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 30688

(b) Chapter 918. of the Revised Code; 30689

(c) Chapter 953. of the Revised Code. 30690

(D) Neither this chapter nor any rules adopted under it apply 30691  
to single-family residential premises; to infectious wastes 30692  
generated by individuals for purposes of their own care or 30693  
treatment that are disposed of with solid wastes from the 30694  
individual's residence; to the temporary storage of solid wastes, 30695  
other than scrap tires, prior to their collection for disposal; to 30696  
the storage of one hundred or fewer scrap tires unless they are 30697  
stored in such a manner that, in the judgment of the director or 30698  
the board of health of the health district in which the scrap 30699  
tires are stored, the storage causes a nuisance, a hazard to 30700  
public health or safety, or a fire hazard; or to the collection of 30701

solid wastes, other than scrap tires, by a political subdivision 30702  
or a person holding a franchise or license from a political 30703  
subdivision of the state; to composting, as defined in section 30704  
1511.01 of the Revised Code, conducted in accordance with section 30705  
1511.022 of the Revised Code; or to any person who is licensed to 30706  
transport raw rendering material to a compost facility pursuant to 30707  
section 953.23 of the Revised Code. 30708

(E)(1) As used in this division and section 3734.18 of the 30709  
Revised Code: 30710

(a) "On-site facility" means a facility that stores, treats, 30711  
or disposes of hazardous waste that is generated on the premises 30712  
of the facility. 30713

(b) "Off-site facility" means a facility that stores, treats, 30714  
or disposes of hazardous waste that is generated off the premises 30715  
of the facility and includes such a facility that is also an 30716  
on-site facility. 30717

(c) "Satellite facility" means any of the following: 30718

(i) An on-site facility that also receives hazardous waste 30719  
from other premises owned by the same person who generates the 30720  
waste on the facility premises; 30721

(ii) An off-site facility operated so that all of the 30722  
hazardous waste it receives is generated on one or more premises 30723  
owned by the person who owns the facility; 30724

(iii) An on-site facility that also receives hazardous waste 30725  
that is transported uninterruptedly and directly to the facility 30726  
through a pipeline from a generator who is not the owner of the 30727  
facility. 30728

(2) Except as provided in division (E)(3) of this section, no 30729  
person shall establish or operate a hazardous waste facility, or 30730  
use a solid waste facility for the storage, treatment, or disposal 30731

of any hazardous waste, without a hazardous waste facility 30732  
installation and operation permit ~~from the hazardous waste~~ 30733  
~~facility board~~ issued in accordance with section 3734.05 of the 30734  
Revised Code and subject to the payment of an application fee not 30735  
to exceed one thousand five hundred dollars, payable upon 30736  
application for a hazardous waste facility installation and 30737  
operation permit and upon application for a renewal permit issued 30738  
under division (H) of section 3734.05 of the Revised Code, to be 30739  
credited to the hazardous waste facility management fund created 30740  
in section 3734.18 of the Revised Code. The term of a hazardous 30741  
waste facility installation and operation permit shall not exceed 30742  
five years. 30743

In addition to the application fee, there is hereby levied an 30744  
annual permit fee to be paid by the permit holder upon the 30745  
anniversaries of the date of issuance of the hazardous waste 30746  
facility installation and operation permit and of any subsequent 30747  
renewal permits and to be credited to the hazardous waste facility 30748  
management fund. Annual permit fees totaling forty thousand 30749  
dollars or more for any one facility may be paid on a quarterly 30750  
basis with the first quarterly payment each year being due on the 30751  
anniversary of the date of issuance of the hazardous waste 30752  
facility installation and operation permit and of any subsequent 30753  
renewal permits. The annual permit fee shall be determined for 30754  
each permit holder by the director in accordance with the 30755  
following schedule: 30756

TYPE OF BASIC				30757
MANAGEMENT UNIT	TYPE OF FACILITY		FEE	30758
Storage facility using:				30759
Containers	On-site, off-site, and			30760
	satellite		\$ 500	30761
Tanks	On-site, off-site, and			30762
	satellite		500	30763
Waste pile	On-site, off-site, and			30764



	satellite	3,000	30765
Surface impoundment	On-site and satellite	8,000	30766
	Off-site	10,000	30767
Disposal facility using:			30768
Deep well injection	On-site and satellite	15,000	30769
	Off-site	25,000	30770
Landfill	On-site and satellite	25,000	30771
	Off-site	40,000	30772
Land application	On-site and satellite	2,500	30773
	Off-site	5,000	30774
Surface impoundment	On-site and satellite	10,000	30775
	Off-site	20,000	30776
Treatment facility using:			30777
Tanks	On-site, off-site, and		30778
	satellite	700	30779
Surface impoundment	On-site and satellite	8,000	30780
	Off-site	10,000	30781
Incinerator	On-site and satellite	5,000	30782
	Off-site	<u>10,000</u>	30783
Other forms			30784
of treatment	On-site, off-site, and		30785
	satellite	1,000	30786

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the schedule for each such method.

The director shall not require the payment of that portion of an annual permit fee of any permit holder that would apply to a hazardous waste management unit for which a permit has been

issued, but for which construction has not yet commenced. Once 30797  
construction has commenced, the director shall require the payment 30798  
of a part of the appropriate fee indicated by the schedule that 30799  
bears the same relationship to the total fee that the number of 30800  
days remaining until the next anniversary date at which payment of 30801  
the annual permit fee is due bears to three hundred sixty-five. 30802

The director, by rules adopted in accordance with Chapters 30803  
119. and 3745. of the Revised Code, shall prescribe procedures for 30804  
collecting the annual permit fee established by this division and 30805  
may prescribe other requirements necessary to carry out this 30806  
division. 30807

(3) The prohibition against establishing or operating a 30808  
hazardous waste facility without a hazardous waste facility 30809  
installation and operation permit ~~from the board~~ does not apply to 30810  
either of the following: 30811

(a) A facility that is operating in accordance with a permit 30812  
renewal issued under division (H) of section 3734.05 of the 30813  
Revised Code, a revision issued under division (I) of that section 30814  
as it existed prior to August 20, 1996, or a modification issued 30815  
by the director under division (I) of that section on and after 30816  
August 20, 1996; 30817

(b) Except as provided in division (J) of section 3734.05 of 30818  
the Revised Code, a facility that will operate or is operating in 30819  
accordance with a permit by rule, or that is not subject to permit 30820  
requirements, under rules adopted by the director. In accordance 30821  
with Chapter 119. of the Revised Code, the director shall adopt, 30822  
and subsequently may amend, suspend, or rescind, rules for the 30823  
purposes of division (E)(3)(b) of this section. Any rules so 30824  
adopted shall be consistent with and equivalent to regulations 30825  
pertaining to interim status adopted under the "Resource 30826  
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 30827  
6921, as amended, except as otherwise provided in this chapter. 30828

If a modification is requested or proposed for a facility 30829  
described in division (E)(3)(a) or (b) of this section, division 30830  
(I)~~(8)~~(7) of section 3734.05 of the Revised Code applies. 30831

(F) No person shall store, treat, or dispose of hazardous 30832  
waste identified or listed under this chapter and rules adopted 30833  
under it, regardless of whether generated on or off the premises 30834  
where the waste is stored, treated, or disposed of, or transport 30835  
or cause to be transported any hazardous waste identified or 30836  
listed under this chapter and rules adopted under it to any other 30837  
premises, except at or to any of the following: 30838

(1) A hazardous waste facility operating under a permit 30839  
issued in accordance with this chapter; 30840

(2) A facility in another state operating under a license or 30841  
permit issued in accordance with the "Resource Conservation and 30842  
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 30843  
amended; 30844

(3) A facility in another nation operating in accordance with 30845  
the laws of that nation; 30846

(4) A facility holding a permit issued pursuant to Title I of 30847  
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 30848  
Stat. 1052, 33 U.S.C.A. 1401, as amended; 30849

(5) A hazardous waste facility as described in division 30850  
(E)(3)(a) or (b) of this section. 30851

(G) The director, by order, may exempt any person generating, 30852  
collecting, storing, treating, disposing of, or transporting solid 30853  
wastes or hazardous waste, or processing solid wastes that consist 30854  
of scrap tires, in such quantities or under such circumstances 30855  
that, in the determination of the director, are unlikely to 30856  
adversely affect the public health or safety or the environment 30857  
from any requirement to obtain a registration certificate, permit, 30858

or license or comply with the manifest system or other 30859  
requirements of this chapter. Such an exemption shall be 30860  
consistent with and equivalent to any regulations adopted by the 30861  
administrator of the United States environmental protection agency 30862  
under the "Resource Conservation and Recovery Act of 1976," 90 30863  
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 30864  
provided in this chapter. 30865

(H) No person shall engage in filling, grading, excavating, 30866  
building, drilling, or mining on land where a hazardous waste 30867  
facility, or a solid waste facility, was operated without prior 30868  
authorization from the director, who shall establish the procedure 30869  
for granting such authorization by rules adopted in accordance 30870  
with Chapter 119. of the Revised Code. 30871

A public utility that has main or distribution lines above or 30872  
below the land surface located on an easement or right-of-way 30873  
across land where a solid waste facility was operated may engage 30874  
in any such activity within the easement or right-of-way without 30875  
prior authorization from the director for purposes of performing 30876  
emergency repair or emergency replacement of its lines; of the 30877  
poles, towers, foundations, or other structures supporting or 30878  
sustaining any such lines; or of the appurtenances to those 30879  
structures, necessary to restore or maintain existing public 30880  
utility service. A public utility may enter upon any such easement 30881  
or right-of-way without prior authorization from the director for 30882  
purposes of performing necessary or routine maintenance of those 30883  
portions of its existing lines; of the existing poles, towers, 30884  
foundations, or other structures sustaining or supporting its 30885  
lines; or of the appurtenances to any such supporting or 30886  
sustaining structure, located on or above the land surface on any 30887  
such easement or right-of-way. Within twenty-four hours after 30888  
commencing any such emergency repair, replacement, or maintenance 30889  
work, the public utility shall notify the director or the 30890

director's authorized representative of those activities and shall 30891  
provide such information regarding those activities as the 30892  
director or the director's representative may request. Upon 30893  
completion of the emergency repair, replacement, or maintenance 30894  
activities, the public utility shall restore any land of the solid 30895  
waste facility disturbed by those activities to the condition 30896  
existing prior to the commencement of those activities. 30897

(I) No owner or operator of a hazardous waste facility, in 30898  
the operation of the facility, shall cause, permit, or allow the 30899  
emission therefrom of any particulate matter, dust, fumes, gas, 30900  
mist, smoke, vapor, or odorous substance that, in the opinion of 30901  
the director, unreasonably interferes with the comfortable 30902  
enjoyment of life or property by persons living or working in the 30903  
vicinity of the facility, or that is injurious to public health. 30904  
Any such action is hereby declared to be a public nuisance. 30905

(J) Notwithstanding any other provision of this chapter, in 30906  
the event the director finds an imminent and substantial danger to 30907  
public health or safety or the environment that creates an 30908  
emergency situation requiring the immediate treatment, storage, or 30909  
disposal of hazardous waste, the director may issue a temporary 30910  
emergency permit to allow the treatment, storage, or disposal of 30911  
the hazardous waste at a facility that is not otherwise authorized 30912  
by a hazardous waste facility installation and operation permit to 30913  
treat, store, or dispose of the waste. The emergency permit shall 30914  
not exceed ninety days in duration and shall not be renewed. The 30915  
director shall adopt, and may amend, suspend, or rescind, rules in 30916  
accordance with Chapter 119. of the Revised Code governing the 30917  
issuance, modification, revocation, and denial of emergency 30918  
permits. 30919

(K) No owner or operator of a sanitary landfill shall 30920  
knowingly accept for disposal, or dispose of, any infectious 30921  
wastes, other than those subject to division (A)(1)(c) of section 30922

3734.021 of the Revised Code, that have not been treated to render 30923  
them noninfectious. For the purposes of this division, 30924  
certification by the owner or operator of the treatment facility 30925  
where the wastes were treated on the shipping paper required by 30926  
rules adopted under division (D)(2) of that section creates a 30927  
rebuttable presumption that the wastes have been so treated. 30928

(L) The director, in accordance with Chapter 119. of the 30929  
Revised Code, shall adopt, and may amend, suspend, or rescind, 30930  
rules having uniform application throughout the state establishing 30931  
a training and certification program that shall be required for 30932  
employees of boards of health who are responsible for enforcing 30933  
the solid waste and infectious waste provisions of this chapter 30934  
and rules adopted under them and for persons who are responsible 30935  
for the operation of solid waste facilities or infectious waste 30936  
treatment facilities. The rules shall provide all of the 30937  
following, without limitation: 30938

(1) The program shall be administered by the director and 30939  
shall consist of a course on new solid waste and infectious waste 30940  
technologies, enforcement procedures, and rules; 30941

(2) The course shall be offered on an annual basis; 30942

(3) Those persons who are required to take the course under 30943  
division (L) of this section shall do so triennially; 30944

(4) Persons who successfully complete the course shall be 30945  
certified by the director; 30946

(5) Certification shall be required for all employees of 30947  
boards of health who are responsible for enforcing the solid waste 30948  
or infectious waste provisions of this chapter and rules adopted 30949  
under them and for all persons who are responsible for the 30950  
operation of solid waste facilities or infectious waste treatment 30951  
facilities; 30952

(6)(a) All employees of a board of health who, on the 30953

effective date of the rules adopted under this division, are 30954  
responsible for enforcing the solid waste or infectious waste 30955  
provisions of this chapter and the rules adopted under them shall 30956  
complete the course and be certified by the director not later 30957  
than January 1, 1995; 30958

(b) All employees of a board of health who, after the 30959  
effective date of the rules adopted under division (L) of this 30960  
section, become responsible for enforcing the solid waste or 30961  
infectious waste provisions of this chapter and rules adopted 30962  
under them and who do not hold a current and valid certification 30963  
from the director at that time shall complete the course and be 30964  
certified by the director within two years after becoming 30965  
responsible for performing those activities. 30966

No person shall fail to obtain the certification required 30967  
under this division. 30968

(M) The director shall not issue a permit under section 30969  
3734.05 of the Revised Code to establish a solid waste facility, 30970  
or to modify a solid waste facility operating on December 21, 30971  
1988, in a manner that expands the disposal capacity or geographic 30972  
area covered by the facility, that is or is to be located within 30973  
the boundaries of a state park established or dedicated under 30974  
Chapter 1541. of the Revised Code, a state park purchase area 30975  
established under section 1541.02 of the Revised Code, any unit of 30976  
the national park system, or any property that lies within the 30977  
boundaries of a national park or recreation area, but that has not 30978  
been acquired or is not administered by the secretary of the 30979  
United States department of the interior, located in this state, 30980  
or any candidate area located in this state and identified for 30981  
potential inclusion in the national park system in the edition of 30982  
the "national park system plan" submitted under paragraph (b) of 30983  
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 30984  
U.S.C.A. 1a-5, as amended, current at the time of filing of the 30985

application for the permit, unless the facility or proposed 30986  
facility is or is to be used exclusively for the disposal of solid 30987  
wastes generated within the park or recreation area and the 30988  
director determines that the facility or proposed facility will 30989  
not degrade any of the natural or cultural resources of the park 30990  
or recreation area. The director shall not issue a variance under 30991  
division (A) of this section and rules adopted under it, or issue 30992  
an exemption order under division (G) of this section, that would 30993  
authorize any such establishment or expansion of a solid waste 30994  
facility within the boundaries of any such park or recreation 30995  
area, state park purchase area, or candidate area, other than a 30996  
solid waste facility exclusively for the disposal of solid wastes 30997  
generated within the park or recreation area when the director 30998  
determines that the facility will not degrade any of the natural 30999  
or cultural resources of the park or recreation area. 31000

(N)(1) The rules adopted under division (A) of this section, 31001  
other than those governing variances, do not apply to scrap tire 31002  
collection, storage, monocell, monofill, and recovery facilities. 31003  
Those facilities are subject to and governed by rules adopted 31004  
under sections 3734.70 to 3734.73 of the Revised Code, as 31005  
applicable. 31006

(2) Division (C) of this section does not apply to scrap tire 31007  
collection, storage, monocell, monofill, and recovery facilities. 31008  
The establishment and modification of those facilities are subject 31009  
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 31010  
Code, as applicable. 31011

(3) The director may adopt, amend, suspend, or rescind rules 31012  
under division (A) of this section creating an alternative system 31013  
for authorizing the establishment, operation, or modification of a 31014  
solid waste compost facility in lieu of the requirement that a 31015  
person seeking to establish, operate, or modify a solid waste 31016  
compost facility apply for and receive a permit under division (C) 31017



of this section and section 3734.05 of the Revised Code and a 31018  
license under division (A)(1) of that section. The rules may 31019  
include requirements governing, without limitation, the 31020  
classification of solid waste compost facilities, the submittal of 31021  
operating records for solid waste compost facilities, and the 31022  
creation of a registration or notification system in lieu of the 31023  
issuance of permits and licenses for solid waste compost 31024  
facilities. The rules shall specify the applicability of divisions 31025  
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 31026  
Code to a solid waste compost facility. 31027

**Sec. 3734.05.** (A)(1) Except as provided in divisions (A)(4), 31028  
(8), and (9) of this section, no person shall operate or maintain 31029  
a solid waste facility without a license issued under this 31030  
division by the board of health of the health district in which 31031  
the facility is located or by the director of environmental 31032  
protection when the health district in which the facility is 31033  
located is not on the approved list under section 3734.08 of the 31034  
Revised Code. 31035

During the month of December, but before the first day of 31036  
January of the next year, every person proposing to continue to 31037  
operate an existing solid waste facility shall procure a license 31038  
under this division to operate the facility for that year from the 31039  
board of health of the health district in which the facility is 31040  
located or, if the health district is not on the approved list 31041  
under section 3734.08 of the Revised Code, from the director. The 31042  
application for such a license shall be submitted to the board of 31043  
health or to the director, as appropriate, on or before the last 31044  
day of September of the year preceding that for which the license 31045  
is sought. In addition to the application fee prescribed in 31046  
division (A)(2) of this section, a person who submits an 31047  
application after that date shall pay an additional ten per cent 31048  
of the amount of the application fee for each week that the 31049

application is late. Late payment fees accompanying an application 31050  
submitted to the board of health shall be credited to the special 31051  
fund of the health district created in division (B) of section 31052  
3734.06 of the Revised Code, and late payment fees accompanying an 31053  
application submitted to the director shall be credited to the 31054  
general revenue fund. A person who has received a license, upon 31055  
sale or disposition of a solid waste facility, and upon consent of 31056  
the board of health and the director, may have the license 31057  
transferred to another person. The board of health or the director 31058  
may include such terms and conditions in a license or revision to 31059  
a license as are appropriate to ensure compliance with this 31060  
chapter and rules adopted under it. The terms and conditions may 31061  
establish the authorized maximum daily waste receipts for the 31062  
facility. Limitations on maximum daily waste receipts shall be 31063  
specified in cubic yards of volume for the purpose of regulating 31064  
the design, construction, and operation of solid waste facilities. 31065  
Terms and conditions included in a license or revision to a 31066  
license by a board of health shall be consistent with, and pertain 31067  
only to the subjects addressed in, the rules adopted under 31068  
division (A) of section 3734.02 and division (D) of section 31069  
3734.12 of the Revised Code. 31070

(2)(a) Except as provided in divisions (A)(2)(b), (8), and 31071  
(9) of this section, each person proposing to open a new solid 31072  
waste facility or to modify an existing solid waste facility shall 31073  
submit an application for a permit with accompanying detail plans 31074  
and specifications to the environmental protection agency for 31075  
required approval under the rules adopted by the director pursuant 31076  
to division (A) of section 3734.02 of the Revised Code and 31077  
applicable rules adopted under division (D) of section 3734.12 of 31078  
the Revised Code at least two hundred seventy days before proposed 31079  
operation of the facility and shall concurrently make application 31080  
for the issuance of a license under division (A)(1) of this 31081  
section with the board of health of the health district in which 31082

the proposed facility is to be located. 31083

(b) On and after the effective date of the rules adopted 31084  
under division (A) of section 3734.02 of the Revised Code and 31085  
division (D) of section 3734.12 of the Revised Code governing 31086  
solid waste transfer facilities, each person proposing to open a 31087  
new solid waste transfer facility or to modify an existing solid 31088  
waste transfer facility shall submit an application for a permit 31089  
with accompanying engineering detail plans, specifications, and 31090  
information regarding the facility and its method of operation to 31091  
the environmental protection agency for required approval under 31092  
those rules at least two hundred seventy days before commencing 31093  
proposed operation of the facility and concurrently shall make 31094  
application for the issuance of a license under division (A)(1) of 31095  
this section with the board of health of the health district in 31096  
which the facility is located or proposed. 31097

(c) Each application for a permit under division (A)(2)(a) or 31098  
(b) of this section shall be accompanied by a nonrefundable 31099  
application fee of four hundred dollars that shall be credited to 31100  
the general revenue fund. Each application for an annual license 31101  
under division (A)(1) or (2) of this section shall be accompanied 31102  
by a nonrefundable application fee of one hundred dollars. If the 31103  
application for an annual license is submitted to a board of 31104  
health on the approved list under section 3734.08 of the Revised 31105  
Code, the application fee shall be credited to the special fund of 31106  
the health district created in division (B) of section 3734.06 of 31107  
the Revised Code. If the application for an annual license is 31108  
submitted to the director, the application fee shall be credited 31109  
to the general revenue fund. If a permit or license is issued, the 31110  
amount of the application fee paid shall be deducted from the 31111  
amount of the permit fee due under division (Q) of section 3745.11 31112  
of the Revised Code or the amount of the license fee due under 31113  
division (A)(1), (2), (3), or (4) of section 3734.06 of the 31114

Revised Code.	31115
(d) As used in divisions (A)(2)(d), (e), and (f) of this section, <u>"modify"</u> means any of the following:	31116 31117
(i) Any increase of more than ten per cent in the total capacity of a solid waste facility;	31118 31119
(ii) Any expansion of the limits of solid waste placement at a solid waste facility;	31120 31121
(iii) Any increase in the depth of excavation at a solid waste facility;	31122 31123
(iv) Any change in the technique of waste receipt or type of waste received at a solid waste facility that may endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code.	31124 31125 31126 31127
Not later than thirty-five days after submitting an application under division (A)(2)(a) or (b) of this section for a permit to open a new or modify an existing solid waste facility, the applicant, in conjunction with an officer or employee of the environmental protection agency, shall hold a public meeting on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public meeting on the application, the applicant shall publish notice of the meeting in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the applicant shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public meeting and a general description of the proposed new or modified facility. Not later than five days after publishing the notice, the applicant shall send by certified mail a copy of the notice and the date the	31128 31129 31130 31131 31132 31133 31134 31135 31136 31137 31138 31139 31140 31141 31142 31143 31144 31145

notice was published to the director and the legislative authority 31146  
of each municipal corporation, township, and county, and to the 31147  
chief executive officer of each municipal corporation, in which 31148  
the facility is or is proposed to be located. At the public 31149  
meeting, the applicant shall provide information and describe the 31150  
application and respond to comments or questions concerning the 31151  
application, and the officer or employee of the agency shall 31152  
describe the permit application process. At the public meeting, 31153  
any person may submit written or oral comments on or objections to 31154  
the application. Not more than thirty days after the public 31155  
meeting, the applicant shall provide the director with a copy of a 31156  
transcript of the full meeting, copies of any exhibits, displays, 31157  
or other materials presented by the applicant at the meeting, and 31158  
the original copy of any written comments submitted at the 31159  
meeting. 31160

(e) Except as provided in division (A)(2)(f) of this section, 31161  
prior to taking an action, other than a proposed or final denial, 31162  
upon an application submitted under division (A)(2)(a) of this 31163  
section for a permit to open a new or modify an existing solid 31164  
waste facility, the director shall hold a public information 31165  
session and a public hearing on the application within the county 31166  
in which the new or modified solid waste facility is or is 31167  
proposed to be located or within a contiguous county. If the 31168  
application is for a permit to open a new solid waste facility, 31169  
the director shall hold the hearing not less than fourteen days 31170  
after the information session. If the application is for a permit 31171  
to modify an existing solid waste facility, the director may hold 31172  
both the information session and the hearing on the same day 31173  
unless any individual affected by the application requests in 31174  
writing that the information session and the hearing not be held 31175  
on the same day, in which case the director shall hold the hearing 31176  
not less than fourteen days after the information session. The 31177  
director shall publish notice of the public information session or 31178

public hearing not less than thirty days before holding the 31179  
information session or hearing, as applicable. The notice shall be 31180  
published in each newspaper of general circulation that is 31181  
published in the county in which the facility is or is proposed to 31182  
be located. If no newspaper of general circulation is published in 31183  
the county, the director shall publish the notice in a newspaper 31184  
of general circulation in the county. The notice shall contain the 31185  
date, time, and location of the information session or hearing, as 31186  
applicable, and a general description of the proposed new or 31187  
modified facility. At the public information session, an officer 31188  
or employee of the environmental protection agency shall describe 31189  
the status of the permit application and be available to respond 31190  
to comments or questions concerning the application. At the public 31191  
hearing, any person may submit written or oral comments on or 31192  
objections to the approval of the application. The applicant, or a 31193  
representative of the applicant who has knowledge of the location, 31194  
construction, and operation of the facility, shall attend the 31195  
information session and public hearing to respond to comments or 31196  
questions concerning the facility directed to the applicant or 31197  
representative by the officer or employee of the environmental 31198  
protection agency presiding at the information session and 31199  
hearing. 31200

(f) The solid waste management policy committee of a county 31201  
or joint solid waste management district may adopt a resolution 31202  
requesting expeditious consideration of a specific application 31203  
submitted under division (A)(2)(a) of this section for a permit to 31204  
modify an existing solid waste facility within the district. The 31205  
resolution shall make the finding that expedited consideration of 31206  
the application without the public information session and public 31207  
hearing under division (A)(2)(e) of this section is in the public 31208  
interest and will not endanger human health, as determined by the 31209  
director by rules adopted in accordance with Chapter 119. of the 31210  
Revised Code. Upon receiving such a resolution, the director, at 31211

the director's discretion, may issue a final action upon the 31212  
application without holding a public information session or public 31213  
hearing pursuant to division (A)(2)(e) of this section. 31214

(3) Except as provided in division (A)(10) of this section, 31215  
and unless the owner or operator of any solid waste facility, 31216  
other than a solid waste transfer facility or a compost facility 31217  
that accepts exclusively source separated yard wastes, that 31218  
commenced operation on or before July 1, 1968, has obtained an 31219  
exemption from the requirements of division (A)(3) of this section 31220  
in accordance with division (G) of section 3734.02 of the Revised 31221  
Code, the owner or operator shall submit to the director an 31222  
application for a permit with accompanying engineering detail 31223  
plans, specifications, and information regarding the facility and 31224  
its method of operation for approval under rules adopted under 31225  
division (A) of section 3734.02 of the Revised Code and applicable 31226  
rules adopted under division (D) of section 3734.12 of the Revised 31227  
Code in accordance with the following schedule: 31228

(a) Not later than September 24, 1988, if the facility is 31229  
located in the city of Garfield Heights or Parma in Cuyahoga 31230  
county; 31231

(b) Not later than December 24, 1988, if the facility is 31232  
located in Delaware, Greene, Guernsey, Hamilton, Madison, 31233  
Mahoning, Ottawa, or Vinton county; 31234

(c) Not later than March 24, 1989, if the facility is located 31235  
in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or 31236  
Washington county, or is located in the city of Brooklyn or 31237  
Cuyahoga Heights in Cuyahoga county; 31238

(d) Not later than June 24, 1989, if the facility is located 31239  
in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or 31240  
Summit county or is located in Cuyahoga county outside the cities 31241  
of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights; 31242

(e) Not later than September 24, 1989, if the facility is 31243  
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 31244  
county; 31245

(f) Not later than December 24, 1989, if the facility is 31246  
located in a county not listed in divisions (A)(3)(a) to (e) of 31247  
this section; 31248

(g) Notwithstanding divisions (A)(3)(a) to (f) of this 31249  
section, not later than December 31, 1990, if the facility is a 31250  
solid waste facility owned by a generator of solid wastes when the 31251  
solid waste facility exclusively disposes of solid wastes 31252  
generated at one or more premises owned by the generator 31253  
regardless of whether the facility is located on a premises where 31254  
the wastes are generated and if the facility disposes of more than 31255  
one hundred thousand tons of solid wastes per year, provided that 31256  
any such facility shall be subject to division (A)(5) of this 31257  
section. 31258

(4) Except as provided in divisions (A)(8), (9), and (10) of 31259  
this section, unless the owner or operator of any solid waste 31260  
facility for which a permit was issued after July 1, 1968, but 31261  
before January 1, 1980, has obtained an exemption from the 31262  
requirements of division (A)(4) of this section under division (G) 31263  
of section 3734.02 of the Revised Code, the owner or operator 31264  
shall submit to the director an application for a permit with 31265  
accompanying engineering detail plans, specifications, and 31266  
information regarding the facility and its method of operation for 31267  
approval under those rules. 31268

(5) The director may issue an order in accordance with 31269  
Chapter 3745. of the Revised Code to the owner or operator of a 31270  
solid waste facility requiring the person to submit to the 31271  
director updated engineering detail plans, specifications, and 31272  
information regarding the facility and its method of operation for 31273



approval under rules adopted under division (A) of section 3734.02 31274  
of the Revised Code and applicable rules adopted under division 31275  
(D) of section 3734.12 of the Revised Code if, in the director's 31276  
judgment, conditions at the facility constitute a substantial 31277  
threat to public health or safety or are causing or contributing 31278  
to or threatening to cause or contribute to air or water pollution 31279  
or soil contamination. Any person who receives such an order shall 31280  
submit the updated engineering detail plans, specifications, and 31281  
information to the director within one hundred eighty days after 31282  
the effective date of the order. 31283

(6) The director shall act upon an application submitted 31284  
under division (A)(3) or (4) of this section and any updated 31285  
engineering plans, specifications, and information submitted under 31286  
division (A)(5) of this section within one hundred eighty days 31287  
after receiving them. If the director denies any such permit 31288  
application, the order denying the application or disapproving the 31289  
plans shall include the requirements that the owner or operator 31290  
submit a plan for closure and post-closure care of the facility to 31291  
the director for approval within six months after issuance of the 31292  
order, cease accepting solid wastes for disposal or transfer at 31293  
the facility, and commence closure of the facility not later than 31294  
one year after issuance of the order. If the director determines 31295  
that closure of the facility within that one-year period would 31296  
result in the unavailability of sufficient solid waste management 31297  
facility capacity within the county or joint solid waste 31298  
management district in which the facility is located to dispose of 31299  
or transfer the solid waste generated within the district, the 31300  
director in the order of denial or disapproval may postpone 31301  
commencement of closure of the facility for such period of time as 31302  
the director finds necessary for the board of county commissioners 31303  
or directors of the district to secure access to or for there to 31304  
be constructed within the district sufficient solid waste 31305  
management facility capacity to meet the needs of the district, 31306

provided that the director shall certify in the director's order 31307  
that postponing the date for commencement of closure will not 31308  
endanger ground water or any property surrounding the facility, 31309  
allow methane gas migration to occur, or cause or contribute to 31310  
any other type of environmental damage. 31311

If an emergency need for disposal capacity that may affect 31312  
public health and safety exists as a result of closure of a 31313  
facility under division (A)(6) of this section, the director may 31314  
issue an order designating another solid waste facility to accept 31315  
the wastes that would have been disposed of at the facility to be 31316  
closed. 31317

(7) If the director determines that standards more stringent 31318  
than those applicable in rules adopted under division (A) of 31319  
section 3734.02 of the Revised Code and division (D) of section 31320  
3734.12 of the Revised Code, or standards pertaining to subjects 31321  
not specifically addressed by those rules, are necessary to ensure 31322  
that a solid waste facility constructed at the proposed location 31323  
will not cause a nuisance, cause or contribute to water pollution, 31324  
or endanger public health or safety, the director may issue a 31325  
permit for the facility with such terms and conditions as the 31326  
director finds necessary to protect public health and safety and 31327  
the environment. If a permit is issued, the director shall state 31328  
in the order issuing it the specific findings supporting each such 31329  
term or condition. 31330

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do 31331  
not apply to a solid waste compost facility that accepts 31332  
exclusively source separated yard wastes and that is registered 31333  
under division (C) of section 3734.02 of the Revised Code or, 31334  
unless otherwise provided in rules adopted under division (N)(3) 31335  
of section 3734.02 of the Revised Code, to a solid waste compost 31336  
facility if the director has adopted rules establishing an 31337  
alternative system for authorizing the establishment, operation, 31338

or modification of a solid waste compost facility under that 31339  
division. 31340

(9) Divisions (A)(1) to (7) of this section do not apply to 31341  
scrap tire collection, storage, monocell, monofill, and recovery 31342  
facilities. The approval of plans and specifications, as 31343  
applicable, and the issuance of registration certificates, 31344  
permits, and licenses for those facilities are subject to sections 31345  
3734.75 to 3734.78 of the Revised Code, as applicable, and section 31346  
3734.81 of the Revised Code. 31347

(10) Divisions (A)(3) and (4) of this section do not apply to 31348  
a solid waste incinerator that was placed into operation on or 31349  
before October 12, 1994, and that is not authorized to accept and 31350  
treat infectious wastes pursuant to division (B) of this section. 31351

(B)(1) Each person who is engaged in the business of treating 31352  
infectious wastes for profit at a treatment facility located off 31353  
the premises where the wastes are generated that is in operation 31354  
on August 10, 1988, and who proposes to continue operating the 31355  
facility shall submit to the board of health of the health 31356  
district in which the facility is located an application for a 31357  
license to operate the facility. 31358

Thereafter, no person shall operate or maintain an infectious 31359  
waste treatment facility without a license issued by the board of 31360  
health of the health district in which the facility is located or 31361  
by the director when the health district in which the facility is 31362  
located is not on the approved list under section 3734.08 of the 31363  
Revised Code. 31364

(2)(a) During the month of December, but before the first day 31365  
of January of the next year, every person proposing to continue to 31366  
operate an existing infectious waste treatment facility shall 31367  
procure a license to operate the facility for that year from the 31368  
board of health of the health district in which the facility is 31369

located or, if the health district is not on the approved list 31370  
under section 3734.08 of the Revised Code, from the director. The 31371  
application for such a license shall be submitted to the board of 31372  
health or to the director, as appropriate, on or before the last 31373  
day of September of the year preceding that for which the license 31374  
is sought. In addition to the application fee prescribed in 31375  
division (B)(2)(c) of this section, a person who submits an 31376  
application after that date shall pay an additional ten per cent 31377  
of the amount of the application fee for each week that the 31378  
application is late. Late payment fees accompanying an application 31379  
submitted to the board of health shall be credited to the special 31380  
infectious waste fund of the health district created in division 31381  
(C) of section 3734.06 of the Revised Code, and late payment fees 31382  
accompanying an application submitted to the director shall be 31383  
credited to the general revenue fund. A person who has received a 31384  
license, upon sale or disposition of an infectious waste treatment 31385  
facility and upon consent of the board of health and the director, 31386  
may have the license transferred to another person. The board of 31387  
health or the director may include such terms and conditions in a 31388  
license or revision to a license as are appropriate to ensure 31389  
compliance with the infectious waste provisions of this chapter 31390  
and rules adopted under them. 31391

(b) Each person proposing to open a new infectious waste 31392  
treatment facility or to modify an existing infectious waste 31393  
treatment facility shall submit an application for a permit with 31394  
accompanying detail plans and specifications to the environmental 31395  
protection agency for required approval under the rules adopted by 31396  
the director pursuant to section 3734.021 of the Revised Code two 31397  
hundred seventy days before proposed operation of the facility and 31398  
concurrently shall make application for a license with the board 31399  
of health of the health district in which the facility is or is 31400  
proposed to be located. Not later than ninety days after receiving 31401  
a completed application under division (B)(2)(b) of this section 31402

for a permit to open a new infectious waste treatment facility or 31403  
modify an existing infectious waste treatment facility to expand 31404  
its treatment capacity, or receiving a completed application under 31405  
division (A)(2)(a) of this section for a permit to open a new 31406  
solid waste incineration facility, or modify an existing solid 31407  
waste incineration facility to also treat infectious wastes or to 31408  
increase its infectious waste treatment capacity, that pertains to 31409  
a facility for which a notation authorizing infectious waste 31410  
treatment is included or proposed to be included in the solid 31411  
waste incineration facility's license pursuant to division (B)(3) 31412  
of this section, the director shall hold a public hearing on the 31413  
application within the county in which the new or modified 31414  
infectious waste or solid waste facility is or is proposed to be 31415  
located or within a contiguous county. Not less than thirty days 31416  
before holding the public hearing on the application, the director 31417  
shall publish notice of the hearing in each newspaper that has 31418  
general circulation and that is published in the county in which 31419  
the facility is or is proposed to be located. If there is no 31420  
newspaper that has general circulation and that is published in 31421  
the county, the director shall publish the notice in a newspaper 31422  
of general circulation in the county. The notice shall contain the 31423  
date, time, and location of the public hearing and a general 31424  
description of the proposed new or modified facility. At the 31425  
public hearing, any person may submit written or oral comments on 31426  
or objections to the approval or disapproval of the application. 31427  
The applicant, or a representative of the applicant who has 31428  
knowledge of the location, construction, and operation of the 31429  
facility, shall attend the public hearing to respond to comments 31430  
or questions concerning the facility directed to the applicant or 31431  
representative by the officer or employee of the environmental 31432  
protection agency presiding at the hearing. 31433

(c) Each application for a permit under division (B)(2)(b) of 31434  
this section shall be accompanied by a nonrefundable application 31435

fee of four hundred dollars that shall be credited to the general 31436  
revenue fund. Each application for an annual license under 31437  
division (B)(2)(a) of this section shall be accompanied by a 31438  
nonrefundable application fee of one hundred dollars. If the 31439  
application for an annual license is submitted to a board of 31440  
health on the approved list under section 3734.08 of the Revised 31441  
Code, the application fee shall be credited to the special 31442  
infectious waste fund of the health district created in division 31443  
(C) of section 3734.06 of the Revised Code. If the application for 31444  
an annual license is submitted to the director, the application 31445  
fee shall be credited to the general revenue fund. If a permit or 31446  
license is issued, the amount of the application fee paid shall be 31447  
deducted from the amount of the permit fee due under division (Q) 31448  
of section 3745.11 of the Revised Code or the amount of the 31449  
license fee due under division (C) of section 3734.06 of the 31450  
Revised Code. 31451

(d) The owner or operator of any infectious waste treatment 31452  
facility that commenced operation on or before July 1, 1968, shall 31453  
submit to the director an application for a permit with 31454  
accompanying engineering detail plans, specifications, and 31455  
information regarding the facility and its method of operation for 31456  
approval under rules adopted under section 3734.021 of the Revised 31457  
Code in accordance with the following schedule: 31458

(i) Not later than December 24, 1988, if the facility is 31459  
located in Delaware, Greene, Guernsey, Hamilton, Madison, 31460  
Mahoning, Ottawa, or Vinton county; 31461

(ii) Not later than March 24, 1989, if the facility is 31462  
located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, 31463  
or Washington county, or is located in the city of Brooklyn, 31464  
Cuyahoga Heights, or Parma in Cuyahoga county; 31465

(iii) Not later than June 24, 1989, if the facility is 31466  
located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, 31467

Lucas, or Summit county or is located in Cuyahoga county outside 31468  
the cities of Brooklyn, Cuyahoga Heights, and Parma; 31469

(iv) Not later than September 24, 1989, if the facility is 31470  
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross 31471  
county; 31472

(v) Not later than December 24, 1989, if the facility is 31473  
located in a county not listed in divisions (B)(2)(d)(i) to (iv) 31474  
of this section. 31475

The owner or operator of an infectious waste treatment 31476  
facility required to submit a permit application under division 31477  
(B)(2)(d) of this section is not required to pay any permit 31478  
application fee under division (B)(2)(c) of this section, or 31479  
permit fee under division (Q) of section 3745.11 of the Revised 31480  
Code, with respect thereto unless the owner or operator also 31481  
proposes to modify the facility. 31482

(e) The director may issue an order in accordance with 31483  
Chapter 3745. of the Revised Code to the owner or operator of an 31484  
infectious waste treatment facility requiring the person to submit 31485  
to the director updated engineering detail plans, specifications, 31486  
and information regarding the facility and its method of operation 31487  
for approval under rules adopted under section 3734.021 of the 31488  
Revised Code if, in the director's judgment, conditions at the 31489  
facility constitute a substantial threat to public health or 31490  
safety or are causing or contributing to or threatening to cause 31491  
or contribute to air or water pollution or soil contamination. Any 31492  
person who receives such an order shall submit the updated 31493  
engineering detail plans, specifications, and information to the 31494  
director within one hundred eighty days after the effective date 31495  
of the order. 31496

(f) The director shall act upon an application submitted 31497  
under division (B)(2)(d) of this section and any updated 31498

engineering plans, specifications, and information submitted under 31499  
division (B)(2)(e) of this section within one hundred eighty days 31500  
after receiving them. If the director denies any such permit 31501  
application or disapproves any such updated engineering plans, 31502  
specifications, and information, the director shall include in the 31503  
order denying the application or disapproving the plans the 31504  
requirement that the owner or operator cease accepting infectious 31505  
wastes for treatment at the facility. 31506

(3) Division (B) of this section does not apply to an 31507  
infectious waste treatment facility that meets any of the 31508  
following conditions: 31509

(a) Is owned or operated by the generator of the wastes and 31510  
exclusively treats, by methods, techniques, and practices 31511  
established by rules adopted under division (C)(1) or (3) of 31512  
section 3734.021 of the Revised Code, wastes that are generated at 31513  
any premises owned or operated by that generator regardless of 31514  
whether the wastes are generated on the same premises where the 31515  
generator's treatment facility is located or, if the generator is 31516  
a hospital as defined in section 3727.01 of the Revised Code, 31517  
infectious wastes that are described in division (A)(1)(g), (h), 31518  
or (i) of section 3734.021 of the Revised Code; 31519

(b) Holds a license or renewal of a license to operate a 31520  
crematory facility issued under Chapter 4717. and a permit issued 31521  
under Chapter 3704. of the Revised Code; 31522

(c) Treats or disposes of dead animals or parts thereof, or 31523  
the blood of animals, and is subject to any of the following: 31524

(i) Inspection under the "Federal Meat Inspection Act," 81 31525  
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 31526

(ii) Chapter 918. of the Revised Code; 31527

(iii) Chapter 953. of the Revised Code. 31528



Nothing in division (B) of this section requires a facility 31529  
that holds a license issued under division (A) of this section as 31530  
a solid waste facility and that also treats infectious wastes by 31531  
the same method, technique, or process to obtain a license under 31532  
division (B) of this section as an infectious waste treatment 31533  
facility. However, the solid waste facility license for the 31534  
facility shall include the notation that the facility also treats 31535  
infectious wastes. 31536

On and after the effective date of the amendments to the 31537  
rules adopted under division (C)(2) of section 3734.021 of the 31538  
Revised Code that are required by Section 6 of Substitute House 31539  
Bill No. 98 of the 120th General Assembly, the director shall not 31540  
issue a permit to open a new solid waste incineration facility 31541  
unless the proposed facility complies with the requirements for 31542  
the location of new infectious waste incineration facilities 31543  
established in the required amendments to those rules. 31544

(C) Except for a facility or activity described in division 31545  
(E)(3) of section 3734.02 of the Revised Code, a person who 31546  
proposes to establish or operate a hazardous waste facility shall 31547  
submit ~~an~~ a complete application for a hazardous waste facility 31548  
installation and operation permit and accompanying detail plans, 31549  
specifications, and such information as the director may require 31550  
to the environmental protection agency, ~~except as provided in~~ 31551  
~~division (E)(2) of this section,~~ at least one hundred eighty days 31552  
before the proposed beginning of operation of the facility. The 31553  
applicant shall notify by certified mail the legislative authority 31554  
of each municipal corporation, township, and county in which the 31555  
facility is proposed to be located of the submission of the 31556  
application within ten days after the submission or at such 31557  
earlier time as the director may establish by rule. If the 31558  
application is for a proposed new hazardous waste disposal or 31559  
thermal treatment facility, the applicant also shall give actual 31560

notice of the general design and purpose of the facility to the 31561  
legislative authority of each municipal corporation, township, and 31562  
county in which the facility is proposed to be located at least 31563  
ninety days before the permit application is submitted to the 31564  
environmental protection agency. 31565

In accordance with rules adopted under section 3734.12 of the 31566  
Revised Code, prior to the submission of a complete application 31567  
for a hazardous waste facility installation and operation permit, 31568  
the applicant shall hold at least one meeting in the township or 31569  
municipal corporation in which the facility is proposed to be 31570  
located, whichever is geographically closer to the proposed 31571  
location of the facility. The meeting shall be open to the public 31572  
and shall be held to inform the community of the proposed 31573  
hazardous waste management activities and to solicit questions 31574  
from the community concerning the activities. 31575

~~(D)(1) There is hereby created the hazardous waste facility 31576  
board, composed of the director of environmental protection who 31577  
shall serve as chairperson, the director of natural resources, and 31578  
the chairperson of the Ohio water development authority, or their 31579  
respective designees, and one chemical engineer and one geologist 31580  
who each shall be employed by a state university as defined in 31581  
section 3345.011 of the Revised Code. The chemical engineer and 31582  
geologist each shall be appointed by the governor, with the advice 31583  
and consent of the senate, for a term of two years. The chemical 31584  
engineer and geologist each shall receive as compensation five 31585  
thousand dollars per year, plus expenses necessarily incurred in 31586  
the performance of their duties. 31587~~

~~The board shall not issue any final order without the consent 31588  
of at least three members. 31589~~

~~(2) The hazardous waste facility board shall do both of the 31590  
following: 31591~~

~~(a) Pursuant to Chapter 119. of the Revised Code, adopt rules governing procedure to be followed in hearings before the board:~~ 31592  
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~~(b) Except as provided in section 3734.123 of the Revised Code, approve or disapprove applications for a hazardous waste facility installation and operation permit for new facilities and applications for modifications to existing permits for which the board has jurisdiction as provided in division (I)(3) of this section.~~ 31594  
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~~(3) Except as provided in section 3734.123 of the Revised Code, upon receipt of the completed application for a hazardous waste facility installation and operation permit and a preliminary determination by the staff of the environmental protection agency that the application appears to comply with agency rules and to meet the performance standards set forth in divisions (D), (I), and (J) of section 3734.12 of the Revised Code, the director shall transmit the application to the board, which shall do all of the following:~~ 31600  
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~~(a) Promptly fix a date for a public hearing on the application, not fewer than sixty nor more than ninety days after receipt of the completed application. At the public hearing, any person may submit written or oral comments or objections to the approval or disapproval of the application. A representative of the applicant who has knowledge of the location, construction, operation, closure, and post closure care, if applicable, of the facility shall attend the public hearing in order to respond to comments or questions concerning the facility directed to the representative by the presiding officer.~~ 31609  
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~~(b) Give public notice of the date of the public hearing and a summary of the application in a newspaper having general circulation in the county in which the facility is proposed to be located. The notice shall contain, at a minimum, the date, time,~~ 31619  
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~~and location of the public hearing and shall include the location 31623  
and street address of, or the nearest intersection to, the 31624  
proposed facility, a description of the proposed facility, and the 31625  
location where copies of the application, a short statement by the 31626  
applicant of the anticipated environmental impact of the facility, 31627  
and a map of the facility are available for inspection. 31628~~

~~(c) Promptly fix a date for an adjudication hearing, not 31629  
fewer than ninety nor more than one hundred twenty days after 31630  
receipt of the completed application, at which hearing the board 31631  
shall hear and decide all disputed issues between the parties 31632  
respecting the approval or disapproval of the application. 31633~~

~~(4) The parties to any adjudication hearing before the board 31634  
upon a completed application shall be the following: 31635~~

~~(a) The applicant; 31636~~

~~(b) The staff of the environmental protection agency; 31637~~

~~(c) The board of county commissioners of the county, the 31638  
board of township trustees of the township, and the chief 31639  
executive officer of the municipal corporation in which the 31640  
facility is proposed to be located; 31641~~

~~(d) Any other person who would be aggrieved or adversely 31642  
affected by the proposed facility and who files a petition to 31643  
intervene in the adjudication hearing not later than thirty days 31644  
after the date of publication of the notice required in division 31645  
(D)(3)(b) of this section if the petition is granted by the board 31646  
for good cause shown. The board may allow intervention by other 31647  
aggrieved or adversely affected persons up to fifteen days prior 31648  
to the date of the adjudication hearing for good cause shown when 31649  
the intervention would not be unduly burdensome to or cause a 31650  
delay in the permitting process. 31651~~

~~(5) The hazardous waste facility board shall conduct any 31652  
adjudication hearing upon disputed issues in accordance with 31653~~

~~Chapter 119. of the Revised Code and the rules of the board~~ 31654  
~~governing the procedure of such hearings. Each party may call and~~ 31655  
~~examine witnesses and submit other evidence respecting the~~ 31656  
~~disputed issues presented by an application. A written record~~ 31657  
~~shall be made of the hearing and of all testimony and evidence~~ 31658  
~~submitted to the board upon receipt of a complete application for~~ 31659  
~~a hazardous waste facility installation and operation permit under~~ 31660  
~~division (C) of this section, the director shall consider the~~ 31661  
~~application and accompanying information to determine whether the~~ 31662  
~~application complies with agency rules and the requirements of~~ 31663  
~~division (D)(2) of this section. After making a determination, the~~ 31664  
~~director shall issue either a draft permit or a notice of intent~~ 31665  
~~to deny the permit. The director, in accordance with rules adopted~~ 31666  
~~under section 3734.12 of the Revised Code or with rules adopted to~~ 31667  
~~implement Chapter 3745. of the Revised Code, shall provide public~~ 31668  
~~notice of the application and the draft permit or the notice of~~ 31669  
~~intent to deny the permit, provide an opportunity for public~~ 31670  
~~comments, and, if significant interest is shown, schedule a public~~ 31671  
~~meeting in the county in which the facility is proposed to be~~ 31672  
~~located and give public notice of the date, time, and location of~~ 31673  
~~the public meeting in a newspaper of general circulation in that~~ 31674  
~~county.~~ 31675

~~(6)(2) The board~~ director shall not approve an application 31676  
for a hazardous waste facility installation and operation permit 31677  
or an application for a modification under division (I)(3) of this 31678  
section unless ~~it~~ the director finds and determines as follows: 31679

(a) The nature and volume of the waste to be treated, stored, 31680  
or disposed of at the facility; 31681

(b) That the facility complies with the director's hazardous 31682  
waste standards adopted pursuant to section 3734.12 of the Revised 31683  
Code; 31684

(c) That the facility represents the minimum adverse 31685

environmental impact, considering the state of available 31686  
technology and the nature and economics of various alternatives, 31687  
and other pertinent considerations; 31688

(d) That the facility represents the minimum risk of all of 31689  
the following: 31690

(i) ~~Contamination of ground and surface waters;~~ 31691

~~(ii)~~ Fires or explosions from treatment, storage, or disposal 31692  
methods; 31693

~~(iii)~~ ~~Accident~~ (ii) Release of hazardous waste during 31694  
transportation of hazardous waste to or from the facility; 31695

~~(iv)~~ ~~Impact~~ (iii) Adverse impact on the public health and 31696  
safety; 31697

~~(v)~~ ~~Air pollution;~~ 31698

~~(vi)~~ ~~Soil contamination.~~ 31699

(e) That the facility will comply with this chapter and 31700  
Chapters 3704., ~~3734.~~, and 6111. of the Revised Code and all rules 31701  
and standards adopted under ~~those chapters~~ them; 31702

(f) That if the owner of the facility, the operator of the 31703  
facility, or any other person in a position with the facility from 31704  
which the person may influence the installation and operation of 31705  
the facility has been involved in any prior activity involving 31706  
transportation, treatment, storage, or disposal of hazardous 31707  
waste, that person has a history of compliance with this chapter 31708  
and Chapters 3704., ~~3734.~~, and 6111. of the Revised Code and all 31709  
rules and standards adopted under ~~those chapters~~ them, the 31710  
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 31711  
42 U.S.C.A. 6921, as amended, and all regulations adopted under 31712  
it, and similar laws and rules of other states if any such prior 31713  
operation was located in another state that demonstrates 31714  
sufficient reliability, expertise, and competency to operate a 31715

hazardous waste facility under the applicable provisions of this 31716  
chapter and Chapters 3704., ~~3734.,~~ and 6111. of the Revised Code, 31717  
the applicable rules and standards adopted under ~~those chapters~~ 31718  
them, and terms and conditions of a hazardous waste facility 31719  
installation and operation permit, given the potential for harm to 31720  
the public health and safety and the environment that could result 31721  
from the irresponsible operation of the facility~~;~~. For off-site 31722  
facilities, as defined in section 3734.41 of the Revised Code, the 31723  
director may use the investigative reports of the attorney general 31724  
prepared pursuant to section 3734.42 of the Revised Code as a 31725  
basis for making a finding and determination under division 31726  
(D)(2)(f) of this section. 31727

(g) That the active areas within a new hazardous waste 31728  
facility where acute hazardous waste as listed in 40 C.F.R. 261.33 31729  
(e), as amended, or organic waste that is toxic and is listed 31730  
under 40 C.F.R. 261, as amended, is being stored, treated, or 31731  
disposed of and where the aggregate of the storage design capacity 31732  
and the disposal design capacity of all hazardous waste in those 31733  
areas is greater than two hundred fifty thousand gallons, are not 31734  
located or operated within any of the following: 31735

(i) Two thousand feet of any residence, school, hospital, 31736  
jail, or prison; 31737

(ii) Any naturally occurring wetland; 31738

(iii) Any flood hazard area if the applicant cannot show that 31739  
the facility will be designed, constructed, operated, and 31740  
maintained to prevent washout by a one-hundred-year flood ~~or that~~ 31741  
~~procedures will be in effect to remove the waste before flood~~ 31742  
~~waters can reach it.~~ 31743

Division (D)~~(6)~~(2)(g) of this section does not apply to the 31744  
facility of any applicant who demonstrates to the ~~board~~ director 31745  
that the limitations specified in that division are not necessary 31746

because of the nature or volume of the waste and the manner of 31747  
management applied, the facility will impose no substantial danger 31748  
to the health and safety of persons occupying the structures 31749  
listed in division (D)~~(6)~~(2)(g)(i) of this section, and the 31750  
facility is to be located or operated in an area where the 31751  
proposed hazardous waste activities will not be incompatible with 31752  
existing land uses in the area. 31753

(h) That the facility will not be located within the 31754  
boundaries of a state park established or dedicated under Chapter 31755  
1541. of the Revised Code, a state park purchase area established 31756  
under section 1541.02 of the Revised Code, any unit of the 31757  
national park system, or any property that lies within the 31758  
boundaries of a national park or recreation area, but that has not 31759  
been acquired or is not administered by the secretary of the 31760  
United States department of the interior, located in this state, 31761  
or any candidate area located in this state identified for 31762  
potential inclusion in the national park system in the edition of 31763  
the "national park system plan" submitted under paragraph (b) of 31764  
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 31765  
U.S.C.A. 1a-5, as amended, current at the time of filing of the 31766  
application for the permit, unless the facility will be used 31767  
exclusively for the storage of hazardous waste generated within 31768  
the park or recreation area in conjunction with the operation of 31769  
the park or recreation area. Division (D)~~(6)~~(2)(h) of this section 31770  
does not apply to the facility of any applicant for modification 31771  
of a permit unless the modification application proposes to 31772  
increase the land area included in the facility or to increase the 31773  
quantity of hazardous waste that will be treated, stored, or 31774  
disposed of at the facility. 31775

~~In rendering a decision upon an application for a hazardous 31776  
waste facility installation and operation permit, the board shall 31777  
issue a written order and opinion, which shall include the 31778~~



~~specific findings of fact and conclusions of law that support the board's approval or disapproval of the application.~~ 31779  
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(3) Not later than one hundred eighty days after the end of the public comment period, the director, without prior hearing, shall issue or deny the permit in accordance with Chapter 3745. of the Revised Code. If the ~~board~~ director approves an application for a hazardous waste facility installation and operation permit, ~~as a part of its written order, it~~ the director shall issue the permit, upon such terms and conditions as the ~~board~~ director finds are necessary to ensure the construction and operation of the hazardous waste facility in accordance with the standards of this section. 31781  
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~~(7) Any party adversely affected by an order of the hazardous waste facility board may appeal the order and decision of the board to the court of appeals of Franklin county. An appellant shall file with the board a notice of appeal, which shall designate the order appealed from. A copy of the notice also shall be filed by the appellant with the court, and a copy shall be sent by certified mail to each party to the adjudication hearing before the board. Such notices shall be filed and mailed within thirty days after the date upon which the appellant received notice from the board by certified mail of the making of the order appealed from. No appeal bond shall be required to make an appeal effective.~~ 31791  
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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.~~ 31803  
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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~~ 31809  
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~~proceedings out of which the appeal arises, including any transcript of the testimony and any other evidence that has been submitted before the board. The expense of preparing and transcribing the record shall be taxed as a part of the costs of the appeal. The appellant, other than the state or a political subdivision, an agency of either, or any officer of the appellant acting in the officer's representative capacity, shall provide security for costs satisfactory to the court considering the respective interests of the parties and the public interest. Upon demand by a party, the board shall furnish, at the cost of the party requesting it, a copy of the record. If the complete record is not filed within the time provided for in this section, any party may apply to the court to have the case docketed, and the court shall order the record filed.~~

~~In hearing the appeal, the court is confined to the record as certified to it by the board. The court may grant a request for the admission of additional evidence when satisfied that the additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the board.~~

~~The court shall affirm the order complained of in the appeal if it finds, upon consideration of the entire record and such additional evidence as the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such findings, it shall reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. Such appeals may be taken by any party to the appeal pursuant to the Rules of Practice of the Supreme Court and, to the extent not in conflict with those rules, Chapter 2505. of the~~

<del>Revised Code.</del>	31843
<del>(E)(1) Upon receipt of a completed application, the board shall issue a hazardous waste facility installation and operation permit for a hazardous waste facility subject to the requirements of divisions (D)(6) and (7) of this section and all applicable federal regulations if the facility for which the permit is requested satisfies all of the following:</del>	31844
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<del>(a) Was in operation immediately prior to October 9, 1980;</del>	31850
<del>(b) Was in substantial compliance with applicable statutes and rules in effect immediately prior to October 9, 1980, as determined by the director;</del>	31851
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	31853
<del>(c) Demonstrates to the board that its operations after October 9, 1980, comply with applicable performance standards adopted by the director pursuant to division (D) of section 3734.12 of the Revised Code;</del>	31854
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	31857
<del>(d) Submits a completed application for a permit under division (C) of this section within six months after October 9, 1980.</del>	31858
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<del>The board shall act on the application within twelve months after October 9, 1980.</del>	31861
	31862
<del>(2) A hazardous waste facility that was in operation immediately prior to October 9, 1980, may continue to operate after that date if it does all of the following:</del>	31863
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	31865
<del>(a) Complies with performance standards adopted by the director pursuant to division (D) of section 3734.12 of the Revised Code;</del>	31866
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<del>(b) Submits a completed application for a hazardous waste installation and operation permit under division (C) of this section within six months after October 9, 1980;</del>	31869
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	31871
<del>(c) Obtains the permit under division (D) of this section</del>	31872

~~within twelve months after October 9, 1980.~~ 31873

(3) No political subdivision of this state shall require any 31874  
additional zoning or other approval, consent, permit, certificate, 31875  
or condition for the construction or operation of a hazardous 31876  
waste facility authorized by a hazardous waste facility 31877  
installation and operation permit issued pursuant to this chapter, 31878  
nor shall any political subdivision adopt or enforce any law, 31879  
ordinance, or rule that in any way alters, impairs, or limits the 31880  
authority granted in the permit. 31881

~~(4) After the issuance of a hazardous waste facility 31882  
installation and operation permit by the board, each hazardous 31883  
waste facility shall be subject to the rules and supervision of 31884  
the director during the period of its operation, closure, and 31885  
post-closure care, if applicable.~~ 31886

(F) ~~Upon approval of the board in accordance with divisions 31887  
(D) and (E) of this section, the board~~ The director may issue a 31888  
single hazardous waste facility installation and operation permit 31889  
to a person who operates two or more adjoining facilities where 31890  
hazardous waste is stored, treated, or disposed of if the 31891  
application includes detail plans, specifications, and information 31892  
on all facilities. For the purposes of this section, "adjoining" 31893  
means sharing a common boundary, separated only by a public road, 31894  
or in such proximity that the director determines that the 31895  
issuance of a single permit will not create a hazard to the public 31896  
health or safety or the environment. 31897

(G) No person shall falsify or fail to keep or submit any 31898  
plans, specifications, data, reports, records, manifests, or other 31899  
information required to be kept or submitted to the director ~~or to~~ 31900  
~~the hazardous waste facility board~~ by this chapter or the rules 31901  
adopted under it. 31902

(H)(1) Each person who holds an installation and operation 31903

permit issued under this section and who wishes to obtain a permit 31904  
renewal shall submit a completed application for an installation 31905  
and operation permit renewal and any necessary accompanying 31906  
general plans, detail plans, specifications, and such information 31907  
as the director may require to the director no later than one 31908  
hundred eighty days prior to the expiration date of the existing 31909  
permit or upon a later date prior to the expiration of the 31910  
existing permit if the permittee can demonstrate good cause for 31911  
the late submittal. The director shall consider the application 31912  
and accompanying information, inspection reports of the facility, 31913  
results of performance tests, a report regarding the facility's 31914  
compliance or noncompliance with the terms and conditions of its 31915  
permit and rules adopted by the director under this chapter, and 31916  
such other information as is relevant to the operation of the 31917  
facility and shall issue a draft renewal permit or a notice of 31918  
intent to deny the renewal permit. The director, in accordance 31919  
with rules adopted under this section or with rules adopted to 31920  
implement Chapter 3745. of the Revised Code, shall give public 31921  
notice of the application and draft renewal permit or notice of 31922  
intent to deny the renewal permit, provide for the opportunity for 31923  
public comments within a specified time period, schedule a public 31924  
meeting in the county in which the facility is located if 31925  
significant interest is shown, and give public notice of the 31926  
public meeting. 31927

(2) Within sixty days after the public meeting or close of 31928  
the public comment period, the director, without prior hearing, 31929  
shall issue or deny the renewal permit in accordance with Chapter 31930  
3745. of the Revised Code. The director shall not issue a renewal 31931  
permit unless the director determines that the facility under the 31932  
existing permit has a history of compliance with this chapter, 31933  
rules adopted under it, the existing permit, or orders entered to 31934  
enforce such requirements that demonstrates sufficient 31935  
reliability, expertise, and competency to operate the facility 31936

henceforth under this chapter, rules adopted under it, and the 31937  
renewal permit. If the director approves an application for a 31938  
renewal permit, the director shall issue the permit subject to the 31939  
payment of the annual permit fee required under division (E) of 31940  
section 3734.02 of the Revised Code and upon such terms and 31941  
conditions as the director finds are reasonable to ensure that 31942  
continued operation, maintenance, closure, and post-closure care 31943  
of the hazardous waste facility are in accordance with the rules 31944  
adopted under section 3734.12 of the Revised Code. 31945

(3) An installation and operation permit renewal application 31946  
submitted to the director that also contains or would constitute 31947  
an application for a modification shall be acted upon by the 31948  
director in accordance with division (I) of this section in the 31949  
same manner as an application for a modification. In approving or 31950  
disapproving the renewal portion of a permit renewal application 31951  
containing an application for a modification, the director shall 31952  
apply the criteria established under division (H)(2) of this 31953  
section. 31954

(4) An application for renewal or modification of a permit 31955  
that does not contain an application for a modification as 31956  
described in divisions (I)(3)(a) to (d) of this section shall not 31957  
be subject to division (D)(2) of this section. 31958

(I)(1) As used in this section, "modification" means a change 31959  
or alteration to a hazardous waste facility or its operations that 31960  
is inconsistent with or not authorized by its existing permit or 31961  
authorization to operate. Modifications shall be classified as 31962  
Class 1, 2, or 3 modifications in accordance with rules adopted 31963  
under division (K) of this section. Modifications classified as 31964  
Class 3 modifications, in accordance with rules adopted under that 31965  
division, shall be further classified by the director as either 31966  
Class 3 modifications that are to be approved or disapproved by 31967  
the ~~hazardous waste facility board as described in~~ director under 31968

divisions (I)(3)(a) to (d) of this section or as Class 3 31969  
modifications that are to be approved or disapproved by the 31970  
director under division (I)(5) of this section. Not later than 31971  
thirty days after receiving a request for a modification under 31972  
division (I)(4) of this section that is not listed in Appendix I 31973  
to 40 C.F.R. 270.42 or in rules adopted under division (K) of this 31974  
section, the director shall classify the modification and shall 31975  
notify the owner or operator of the facility requesting the 31976  
modification of the classification. Notwithstanding any other law 31977  
to the contrary, any modification that involves the transfer of a 31978  
hazardous waste facility installation and operation permit to a 31979  
new owner or operator shall be classified as a Class 3 31980  
modification. 31981

(2) Except as provided in section 3734.123 of the Revised 31982  
Code, a hazardous waste facility installation and operation permit 31983  
may be modified at the request of the director or upon the written 31984  
request of the permittee only if any of the following applies: 31985

(a) The permittee desires to accomplish alterations, 31986  
additions, or deletions to the permitted facility or to undertake 31987  
alterations, additions, deletions, or activities that are 31988  
inconsistent with or not authorized by the existing permit; 31989

(b) New information or data justify permit conditions in 31990  
addition to or different from those in the existing permit; 31991

(c) The standards, criteria, or rules upon which the existing 31992  
permit is based have been changed by new, amended, or rescinded 31993  
standards, criteria, or rules, or by judicial decision after the 31994  
existing permit was issued, and the change justifies permit 31995  
conditions in addition to or different from those in the existing 31996  
permit; 31997

(d) The permittee proposes to transfer the permit to another 31998  
person. 31999

(3) The director ~~has jurisdiction to~~ shall approve or 32000  
disapprove ~~applications~~ an application for Class 1 modifications, 32001  
~~Class 2 modifications, and Class 3 modifications not otherwise~~ 32002  
~~described in divisions (I)(3)(a) to (d) of this section. The~~ 32003  
~~hazardous waste facility board has jurisdiction to approve or~~ 32004  
~~disapprove applications for any~~ a modification in accordance with 32005  
division (D)(2) of this section and rules adopted under division 32006  
(K) of this section for all of the following categories of Class 3 32007  
modifications: 32008

(a) Authority to conduct treatment, storage, or disposal at a 32009  
site, location, or tract of land that has not been authorized for 32010  
the proposed category of treatment, storage, or disposal activity 32011  
by the facility's permit; 32012

(b) Modification or addition of a hazardous waste management 32013  
unit, as defined in rules adopted under section 3734.12 of the 32014  
Revised Code, that results in an increase in a facility's storage 32015  
capacity of more than twenty-five per cent over the capacity 32016  
authorized by the facility's permit, an increase in a facility's 32017  
treatment rate of more than twenty-five per cent over the rate so 32018  
authorized, or an increase in a facility's disposal capacity over 32019  
the capacity so authorized. The authorized disposal capacity for a 32020  
facility shall be calculated from the approved design plans for 32021  
the disposal units at that facility. In no case during a five-year 32022  
period shall a facility's storage capacity or treatment rate be 32023  
modified to increase by more than twenty-five per cent in the 32024  
aggregate without ~~board~~ the director's approval in accordance with 32025  
division (D)(2) of this section. Notwithstanding any provision of 32026  
division (I) of this section to the contrary, a request for 32027  
modification of a facility's annual total waste receipt limit 32028  
shall be classified and approved or disapproved by the director 32029  
under division (I)(5) of this section. 32030

(c) Authority to add any of the following categories of 32031



regulated activities not previously authorized at a facility by 32032  
the facility's permit: storage at a facility not previously 32033  
authorized to store hazardous waste, treatment at a facility not 32034  
previously authorized to treat hazardous waste, or disposal at a 32035  
facility not previously authorized to dispose of hazardous waste; 32036  
or authority to add a category of hazardous waste management unit 32037  
not previously authorized at the facility by the facility's 32038  
permit. Notwithstanding any provision of division (I) of this 32039  
section to the contrary, a request for authority to add or to 32040  
modify an activity or a hazardous waste management unit for the 32041  
purposes of performing a corrective action shall be classified and 32042  
approved or disapproved by the director under division (I)(5) of 32043  
this section. 32044

(d) Authority to treat, store, or dispose of waste types 32045  
listed or characterized as reactive or explosive, in rules adopted 32046  
under section 3734.12 of the Revised Code, or any acute hazardous 32047  
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 32048  
previously authorized to treat, store, or dispose of those types 32049  
of wastes by the facility's permit unless the requested authority 32050  
is limited to wastes that no longer exhibit characteristics 32051  
meeting the criteria for listing or characterization as reactive 32052  
or explosive wastes, or for listing as acute hazardous waste, but 32053  
still are required to carry those waste codes as established in 32054  
rules adopted under section 3734.12 of the Revised Code because of 32055  
the requirements established in 40 C.F.R. 261(a) and (e), as 32056  
amended, that is, the "mixture," "derived-from," or "contained-in" 32057  
regulations. 32058

(4) A written request for a modification from the permittee 32059  
shall be submitted to the director and shall contain such 32060  
information as is necessary to support the request. ~~The director~~ 32061  
~~shall transmit to the board requests for Class 3 modifications~~ 32062  
~~described in divisions (I)(3)(a) to (d) of this section within two~~ 32063

~~hundred forty days after receiving the requests.~~ Requests for 32064  
modifications shall be acted upon by the director ~~or the board, as~~ 32065  
~~appropriate,~~ in accordance with this section and rules adopted 32066  
under it. 32067

(5) Class 1 modification applications that require prior 32068  
approval of the director, as determined in accordance with rules 32069  
adopted under division (K) of this section, Class 2 modification 32070  
applications, and Class 3 modification applications that are not 32071  
described in divisions (I)(3)(a) to (d) of this section shall be 32072  
approved or disapproved by the director in accordance with rules 32073  
adopted under division (K) of this section. The board of county 32074  
commissioners of the county, the board of township trustees of the 32075  
township, and the city manager or mayor of the municipal 32076  
corporation in which a hazardous waste facility is located shall 32077  
receive notification of any application for a modification for 32078  
that facility and shall be considered as interested persons with 32079  
respect to the director's consideration of the application. 32080

For those modification applications for a transfer of a 32081  
permit to a new owner or operator of a facility, the director also 32082  
shall determine that, if the transferee owner or operator has been 32083  
involved in any prior activity involving the transportation, 32084  
treatment, storage, or disposal of hazardous waste, the transferee 32085  
owner or operator has a history of compliance with this chapter 32086  
and Chapters 3704. and 6111. of the Revised Code and all rules and 32087  
standards adopted under them, the "Resource Conservation and 32088  
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 32089  
amended, and all regulations adopted under it, and similar laws 32090  
and rules of another state if the transferee owner or operator 32091  
owns or operates a facility in that state, that demonstrates 32092  
sufficient reliability, expertise, and competency to operate a 32093  
hazardous waste facility under this chapter and Chapters 3704. and 32094  
6111. of the Revised Code, all rules and standards adopted under 32095

them, and terms and conditions of a hazardous waste facility 32096  
installation and operation permit, given the potential for harm to 32097  
the public health and safety and the environment that could result 32098  
from the irresponsible operation of the facility. A permit may be 32099  
transferred to a new owner or operator only pursuant to a Class 3 32100  
permit modification. 32101

As used in division (I)(5) of this section: 32102

(a) "Owner" means the person who owns a majority or 32103  
controlling interest in a facility. 32104

(b) "Operator" means the person who is responsible for the 32105  
overall operation of a facility. 32106

The director shall approve or disapprove an application for a 32107  
Class 1 modification that requires the director's approval within 32108  
sixty days after receiving the request for modification. The 32109  
director shall approve or disapprove an application for a Class 2 32110  
modification within three hundred days after receiving the request 32111  
for modification. The director shall approve or disapprove an 32112  
application for a Class 3 modification ~~that is not described in~~ 32113  
~~divisions (I)(3)(a) to (d) of this section~~ within three hundred 32114  
sixty-five days after receiving the request for modification. 32115

(6) The approval or disapproval by the director of a Class 1 32116  
modification application is not a final action that is appealable 32117  
under Chapter 3745. of the Revised Code. The approval or 32118  
disapproval by the director of a Class 2 modification or a Class 3 32119  
modification ~~that is not described in divisions (I)(3)(a) to (d)~~ 32120  
~~of this section~~ is a final action that is appealable under that 32121  
chapter. In approving or disapproving a request for a 32122  
modification, the director shall consider all comments pertaining 32123  
to the request that are received during the public comment period 32124  
and the public meetings. The administrative record for appeal of a 32125  
final action by the director in approving or disapproving a 32126

request for a modification shall include all comments received 32127  
during the public comment period relating to the request for 32128  
modification, written materials submitted at the public meetings 32129  
relating to the request, and any other documents related to the 32130  
director's action. 32131

~~(7) The hazardous waste facility board shall approve or 32132  
disapprove an application for a Class 3 modification transmitted 32133  
to it under division (I)(4) of this section, or that portion of a 32134  
permit renewal application that constitutes a Class 3 modification 32135  
application so transmitted, of a hazardous waste facility 32136  
installation and operation permit in accordance with division (D) 32137  
of this section. No other request for a modification shall be 32138  
subject to division (D)(6) of this section. No aspect of a 32139  
permitted facility or its operations that is not being modified as 32140  
described in division (I)(3)(a), (b), (c), or (d) of this section 32141  
shall be subject to review by the board under division (D) of this 32142  
section. 32143~~

~~(8)~~ Notwithstanding any other provision of law to the 32144  
contrary, a change or alteration to a hazardous waste facility 32145  
described in division (E)(3)(a) or (b) of section 3734.02 of the 32146  
Revised Code, or its operations, is a modification for the 32147  
purposes of this section. An application for a modification at 32148  
such a facility shall be submitted, classified, and approved or 32149  
disapproved in accordance with divisions (I)(1) to ~~(7)~~(6) of this 32150  
section in the same manner as a modification to a hazardous waste 32151  
facility installation and operation permit. 32152

(J)(1) Except as provided in division (J)(2) of this section, 32153  
an owner or operator of a hazardous waste facility that is 32154  
operating in accordance with a permit by rule under rules adopted 32155  
by the director under division (E)(3)(b) of section 3734.02 of the 32156  
Revised Code shall submit either a hazardous waste facility 32157  
installation and operation permit application for the facility or 32158

a modification application, whichever is required under division 32159  
(J)(1)(a) or (b) of this section, within one hundred eighty days 32160  
after the director has requested the application or upon a later 32161  
date if the owner or operator demonstrates to the director good 32162  
cause for the late submittal. 32163

(a) If the owner or operator does not have a hazardous waste 32164  
facility installation and operation permit for any hazardous waste 32165  
treatment, storage, or disposal activities at the facility, the 32166  
owner or operator shall submit an application for such a permit to 32167  
the director for the activities authorized by the permit by rule. 32168  
Notwithstanding any other provision of law to the contrary, the 32169  
director shall approve or disapprove the application for the 32170  
permit in accordance with the procedures governing the approval or 32171  
disapproval of permit renewals under division (H) of this section. 32172

(b) If the owner or operator has a hazardous waste facility 32173  
installation and operation permit for hazardous waste treatment, 32174  
storage, or disposal activities at the facility other than those 32175  
authorized by the permit by rule, the owner or operator shall 32176  
submit to the director a request for modification in accordance 32177  
with division (I) of this section. Notwithstanding any other 32178  
provision of law to the contrary, the director shall approve or 32179  
disapprove the modification application in accordance with ~~rules~~ 32180  
~~adopted under~~ division ~~(K)~~(I)(5) of this section. 32181

(2) The owner or operator of a boiler or industrial furnace 32182  
that is conducting thermal treatment activities in accordance with 32183  
a permit by rule under rules adopted by the director under 32184  
division (E)(3)(b) of section 3734.02 of the Revised Code shall 32185  
submit a hazardous waste facility installation and operation 32186  
permit application if the owner or operator does not have such a 32187  
permit for any hazardous waste treatment, storage, or disposal 32188  
activities at the facility or, if the owner or operator has such a 32189  
permit for hazardous waste treatment, storage, or disposal 32190

activities at the facility other than thermal treatment activities 32191  
authorized by the permit by rule, a modification application to 32192  
add those activities authorized by the permit by rule, whichever 32193  
is applicable, within one hundred eighty days after the director 32194  
has requested the submission of the application or upon a later 32195  
date if the owner or operator demonstrates to the director good 32196  
cause for the late submittal. The application shall be accompanied 32197  
by information necessary to support the request. The ~~hazardous~~ 32198  
~~waste facility board~~ director shall approve or disapprove ~~the an~~ 32199  
application for a hazardous waste facility installation and 32200  
operation permit in accordance with division (D) of this section 32201  
and approve or disapprove an application for a modification in 32202  
accordance with division (I)(3) of this section, except that the 32203  
~~board~~ director shall not disapprove an application for the thermal 32204  
treatment activities on the basis of the criteria set forth in 32205  
division (D)~~(6)~~(2)(g) or (h) of this section. 32206

(3) As used in division (J) of this section: 32207

(a) "Modification application" means a request for a 32208  
modification submitted in accordance with division (I) of this 32209  
section. 32210

(b) "Thermal treatment," "boiler," and "industrial furnace" 32211  
have the same meanings as in rules adopted under section 3734.12 32212  
of the Revised Code. 32213

(K) The director shall adopt, and may amend, suspend, or 32214  
rescind, rules in accordance with Chapter 119. of the Revised Code 32215  
in order to implement divisions (H) and (I) of this section. 32216  
Except when in actual conflict with this section, rules governing 32217  
the classification of and procedures for the modification of 32218  
hazardous waste facility installation and operation permits shall 32219  
be substantively and procedurally identical to the regulations 32220  
governing hazardous waste facility permitting and permit 32221  
modifications adopted under the "Resource Conservation and 32222

Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 32223  
amended. 32224

**Sec. 3734.12.** The director of environmental protection shall 32225  
adopt and may amend, suspend, and rescind rules in accordance with 32226  
Chapter 119. of the Revised Code, which shall be consistent with 32227  
and equivalent to the regulations adopted under the "Resource 32228  
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 32229  
6921, as amended, except for rules adopted under divisions (D) and 32230  
(F) of this section governing solid waste facilities and except as 32231  
otherwise provided in this chapter, doing all of the following: 32232

(A) Adopting the criteria and procedures established under 32233  
the "Resource Conservation and Recovery Act of 1976," 90 Stat. 32234  
2806, 42 U.S.C.A. 6921, as amended, for identifying hazardous 32235  
waste. The director shall prepare, revise when appropriate, and 32236  
publish a list of substances or categories of substances 32237  
identified to be hazardous using the criteria specified in 40 32238  
C.F.R. 261, as amended, which shall be composed of at least those 32239  
substances identified as hazardous pursuant to section 3001(B) of 32240  
that act. The director shall not list any waste that the 32241  
administrator of the United States environmental protection agency 32242  
delisted or excluded by an amendment to the federal regulations, 32243  
any waste that the administrator declined to list by publishing a 32244  
denial of a rulemaking petition or by withdrawal of a proposed 32245  
listing in the United States federal register after May 18, 1980, 32246  
or any waste oil or polychlorinated biphenyl not listed by the 32247  
administrator. 32248

(B) Establishing standards for generators of hazardous waste 32249  
necessary to protect human health or safety or the environment in 32250  
accordance with this chapter, including, but not limited to, 32251  
requirements respecting all of the following: 32252

(1) Record-keeping practices that accurately identify the 32253

quantities of hazardous waste generated, the constituents that are	32254
significant in quantity or in potential harm to human health or	32255
safety or the environment, and the disposition of the waste;	32256
(2) Labeling of containers used for storage, transportation,	32257
or disposal of hazardous waste to identify the waste accurately;	32258
(3) Use of appropriate containers for hazardous waste;	32259
(4) Providing information on the general chemical composition	32260
of hazardous waste to persons transporting, treating, storing, or	32261
disposing of the waste;	32262
(5) A manifest system requiring a manifest consistent with	32263
that prescribed under the "Resource Conservation and Recovery Act	32264
of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended, requiring a	32265
manifest for any hazardous waste transported off the premises	32266
where generated and assuring that all hazardous waste that is	32267
transported off the premises where generated is designated for	32268
treatment, storage, or disposal in facilities for which a permit	32269
has been issued or in the other facilities specified in division	32270
(F) of section 3734.02 of the Revised Code;	32271
(6) Submission of such reports to the director as the	32272
director determines necessary;	32273
(7) Establishment of quality control and testing procedures	32274
that ensure compliance with the rules adopted under this section;	32275
(8) Obtainment of a United States environmental protection	32276
agency identification number.	32277
(C) Establishing standards for transporters of hazardous	32278
waste necessary to protect human health or safety or the	32279
environment in accordance with this chapter, including, but not	32280
limited to, requirements respecting all of the following:	32281
(1) Record-keeping concerning hazardous waste transported,	32282
including source and delivery points;	32283



(2) Submission of such reports to the director as the	32284
director determines necessary;	32285
(3) Transportation of only properly labeled waste;	32286
(4) Compliance with the manifest system required by division	32287
(B) of this section;	32288
(5) Transportation of hazardous waste only to the treatment,	32289
storage, or disposal facility that the shipper designates on the	32290
manifest to be a facility holding a permit or another facility	32291
specified in division (F) of section 3734.02 of the Revised Code;	32292
(6) Contingency plans to minimize unanticipated damage from	32293
transportation of hazardous waste;	32294
(7) Financial responsibility, including, but not limited to,	32295
provisions requiring a financial mechanism to cover the costs of	32296
spill cleanup and liability for sudden accidental occurrences that	32297
result in damage to persons, property, or the environment;	32298
(8) Obtainment of a United States environmental protection	32299
agency identification number.	32300
In the case of any hazardous waste that is subject to the	32301
"Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49	32302
U.S.C.A. 1801, as amended, the rules shall be consistent with that	32303
act and regulations adopted under it.	32304
(D) Establishing performance standards for owners and	32305
operators of hazardous waste facilities and owners and operators	32306
of solid waste facilities, necessary to protect human health or	32307
safety or the environment in accordance with this chapter,	32308
including, but not limited to, requirements respecting all of the	32309
following:	32310
(1) Maintaining records of all hazardous waste that is	32311
treated, stored, or disposed of and of the manner in which the	32312
waste was treated, stored, or disposed of or records of all solid	32313

wastes transferred or disposed of and of the manner in which the	32314
wastes were disposed of;	32315
(2) Submission of such reports to the director as the	32316
director determines necessary;	32317
(3) Reporting, monitoring, inspection, and, except with	32318
respect to solid waste facilities, compliance with the manifest	32319
system referred to in division (B) of this section;	32320
(4) Treatment, storage, or disposal of all hazardous waste	32321
received by methods, techniques, and practices approved by the	32322
director and disposal or transfer of all solid wastes received by	32323
methods, techniques, and practices approved by the director;	32324
(5) Location, design, and construction of hazardous waste	32325
facilities and location, design, and construction of solid waste	32326
facilities;	32327
(6) Contingency plans for effective action to minimize	32328
unanticipated damage from treatment, storage, or disposal of	32329
hazardous waste and the disposal or transfer of solid wastes;	32330
(7) Ownership, continuity of operation, training for	32331
personnel, and financial responsibility, including the filing of	32332
closure and post-closure financial assurance, if applicable. No	32333
private entity shall be precluded by reason of these requirements	32334
from the ownership or operation of facilities providing hazardous	32335
waste treatment, storage, or disposal services if the entity can	32336
provide assurances of financial responsibility and continuity of	32337
operation consistent with the degree and duration of risks	32338
associated with the treatment, storage, or disposal of specified	32339
hazardous waste.	32340
(8) Closure and post-closure care of a hazardous waste	32341
facility where hazardous waste will no longer be treated, stored,	32342
or disposed of and of a solid waste facility where solid wastes	32343
will no longer be disposed of or transferred;	32344

(9) Establishment of quality control and testing procedures	32345
that ensure compliance with the rules adopted under this section;	32346
(10) Obtainment of a United States environmental protection	32347
agency identification number for each hazardous waste treatment,	32348
storage, or disposal facility;	32349
(11) Trial burns and land treatment demonstrations.	32350
The rules adopted under divisions (D) and (F) of this section	32351
pertaining to solid waste facilities do not apply to scrap tire	32352
collection, storage, monocell, monofill, and recovery facilities.	32353
Those facilities are subject to and governed by rules adopted	32354
under sections 3734.70 to 3734.73 of the Revised Code, as	32355
applicable.	32356
(E) Governing the issuance, modification, revocation,	32357
suspension, withdrawal, and denial of installation and operation	32358
permits, draft permits, and transportation certificates of	32359
registration;	32360
(F) Specifying information required to be included in	32361
applications for hazardous waste facility installation and	32362
operation permits and solid waste permits, including, but not	32363
limited to, detail plans, specifications, and information	32364
respecting all of the following:	32365
(1) The composition, quantities, and concentrations of	32366
hazardous waste and solid wastes to be stored, treated,	32367
transported, or disposed of and such other information as the	32368
director may require regarding the method of operation;	32369
(2) The facility to which the waste will be transported or	32370
where it will be stored, treated, or disposed of;	32371
(3) The closure and post-closure care of a facility where	32372
hazardous waste will no longer be treated, stored, or disposed of	32373
and of a solid waste facility where solid wastes will no longer be	32374

disposed of or transferred. 32375

(G) Establishing procedures ensuring that all information 32376  
entitled to protection as trade secrets disclosed to the director 32377  
or the director's authorized representative is not disclosed 32378  
without the consent of the owner, except that such information may 32379  
be disclosed, upon request, to authorized representatives of the 32380  
United States environmental protection agency, or as required by 32381  
law. As used in this section, "trade secrets" means any formula, 32382  
plan, pattern, process, tool, mechanism, compound, procedure, 32383  
production date, or compilation of information that is not 32384  
patented, that is known only to certain individuals within a 32385  
commercial concern who are using it to fabricate, produce, or 32386  
compound an article, trade, or service having commercial value, 32387  
and that gives its user an opportunity to obtain a business 32388  
advantage over competitors who do not know or use it. 32389

(H) Prohibiting the disposal of specified hazardous wastes in 32390  
this state if the director has determined both of the following: 32391

(1) The potential impacts on human health or safety or the 32392  
environment are such that disposal of those wastes should not be 32393  
allowed. 32394

(2) A technically feasible and environmentally sound 32395  
alternative is reasonably available, either within or outside this 32396  
state, for processing, recycling, fixation of, neutralization of, 32397  
or other treatment of those wastes. Such reasonable availability 32398  
shall not be determined without a consideration of the costs to 32399  
the generator of implementing the alternatives. 32400

The director shall adopt, and may amend, suspend, or rescind, 32401  
rules to specify hazardous wastes that shall not be disposed of in 32402  
accordance with this division. Nothing in this division, either 32403  
prior to or after adoption of those rules, shall preclude the 32404  
director ~~or the hazardous waste facility board created in section~~ 32405

~~3734.05 of the Revised Code~~ from prohibiting the disposal of 32406  
specified hazardous wastes at particular facilities under the 32407  
terms or conditions of a permit or ~~preclude the director from~~ 32408  
~~prohibiting that disposal~~ by order. 32409

(I)(1)(a) Governing the following that may be more stringent 32410  
than the regulations adopted under the "Resource Conservation and 32411  
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 32412  
amended, when the director determines that such more stringent 32413  
rules are reasonable in order to protect human health or safety or 32414  
the environment: 32415

(i) Specific wastes that the director determines, because of 32416  
their physical, chemical, or biological characteristics, are so 32417  
extremely hazardous that the storage, treatment, or disposal of 32418  
the wastes in compliance with those regulations would present an 32419  
imminent danger to human health or safety or the environment; 32420

(ii) The use of only properly designed, operated, and 32421  
approved transfer facilities; 32422

(iii) Preventing illegitimate activities relating to the 32423  
reuse, recycling, or reclaiming of hazardous waste, including 32424  
record-keeping, reporting, and manifest requirements. 32425

(b) In adopting such more stringent rules, the director shall 32426  
give consideration to and base the rules on evidence concerning 32427  
factors including, but not limited to, the following insofar as 32428  
pertinent: 32429

(i) Geography of the state; 32430

(ii) Geology of the state; 32431

(iii) Hydrogeology of the state; 32432

(iv) Climate of the state; 32433

(v) Engineering and technical feasibility; 32434

(vi) Availability of alternative technologies or methods of 32435

storage, treatment, or disposal. 32436

(2) The director may require from generators and transporters 32437  
of hazardous waste and from owners or operators of treatment, 32438  
storage, or disposal facilities, the submission of reports in 32439  
addition to those required under regulations adopted under the 32440  
"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 32441  
42 U.S.C.A. 6921, as amended, to the extent that such reports 32442  
contain information that the generator, transporter, or facility 32443  
owner or operator is required to obtain in order to comply with 32444  
the regulations adopted by the administrator of the United States 32445  
environmental protection agency under the "Resource Conservation 32446  
and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 32447  
amended, or to the extent that such reports are required by the 32448  
director to meet the requirements of division (B)(7), (D)(9), or 32449  
(H) of this section or section 3734.121 of the Revised Code. 32450

(J) Governing the storage, treatment, or disposal of 32451  
hazardous waste in, and the permitting, design, construction, 32452  
operation, monitoring, inspection, closure, and post-closure care 32453  
of, hazardous waste underground injection wells, surface 32454  
impoundments, waste piles other than those composed of materials 32455  
removed from the ground as part of coal or mineral extraction or 32456  
cleaning processes, land treatment facilities, thermal treatment 32457  
facilities, and landfills that may be more stringent than the 32458  
regulations adopted under the "Resource Conservation and Recovery 32459  
Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, 32460  
whenever the director reasonably determines that federal 32461  
regulations will not adequately protect the public health or 32462  
safety or the environment of this state with respect to the 32463  
subject matter of the more stringent rules. Such more stringent 32464  
rules shall be developed to achieve a degree of protection, as 32465  
determined by the director, consistent with the degree of hazard 32466  
potentially posed by the various wastes or categories of wastes to 32467

be treated, stored, or disposed of and the types of facilities at 32468  
which they are to be treated, stored, or disposed of. In adopting 32469  
such more stringent rules, the director shall give consideration 32470  
to and base the rules on evidence concerning factors including, 32471  
but not limited to, the following insofar as pertinent: 32472

(1) Geography of the state; 32473

(2) Geology of the state; 32474

(3) Hydrogeology of the state; 32475

(4) Climate of the state; 32476

(5) Engineering and technical feasibility; 32477

(6) Availability of alternative technologies or methods of 32478  
storage, treatment, or disposal. 32479

(K) Establishing performance standards and other requirements 32480  
necessary to protect public health and the environment from 32481  
hazards associated with used oil, including, without limitation, 32482  
standards and requirements respecting all of the following: 32483

(1) Material that is subject to regulation as used oil; 32484

(2) Generation of used oil; 32485

(3) Used oil collection centers and aggregation points; 32486

(4) Transportation of used oil; 32487

(5) Processing and re-refining of used oil; 32488

(6) Burning of used oil; 32489

(7) Marketing of used oil; 32490

(8) Disposal of used oil; 32491

(9) Use of used oil as a dust suppressant. 32492

**Sec. 3734.123.** (A) As used in this section and section 32493  
3734.124 of the Revised Code, "commercial hazardous waste 32494

incinerator" means an enclosed device that treats hazardous waste 32495  
by means of controlled flame combustion and that accepts for 32496  
treatment hazardous waste that is generated off the premises on 32497  
which the device is located by any person other than the one who 32498  
owns or operates the device or one who controls, is controlled by, 32499  
or is under common control with the person who owns or operates 32500  
the device. "Commercial hazardous waste incinerator" does not 32501  
include any "boiler" or "industrial furnace" as those terms are 32502  
defined in rules adopted under section 3734.12 of the Revised 32503  
Code. 32504

(B) Not sooner than three years after April 15, 1993, and 32505  
triennially thereafter, the director of environmental protection 32506  
shall prepare, publish, and issue as a final action an assessment 32507  
of commercial hazardous waste incinerator capacity in this state. 32508  
However, after the issuance as a final action of a determination 32509  
under division (A) of section 3734.124 of the Revised Code that 32510  
terminates the restrictions established in division (C) of this 32511  
section, the director shall cease preparing, publishing, and 32512  
issuing the periodic assessments required under this division. The 32513  
assessment shall determine the amount of commercial hazardous 32514  
waste incinerator capacity needed to manage the hazardous waste 32515  
expected to be generated in this state and imported into this 32516  
state for incineration at commercial hazardous waste incinerators 32517  
during the next succeeding twenty calendar years. The assessment 32518  
shall include at least all of the following: 32519

(1) A determination of the aggregate treatment capacity 32520  
authorized at commercial hazardous waste incinerators located in 32521  
this state; 32522

(2) A determination of the quantity of hazardous waste 32523  
generated in this state that is being treated at commercial 32524  
hazardous waste incinerators located in this state and projections 32525  
of the quantity of hazardous waste generated in this state that 32526



will be treated at those facilities; 32527

(3) A determination of the quantity of hazardous waste 32528  
generated outside this state that is being treated at commercial 32529  
hazardous waste incinerators located in this state and projections 32530  
of the quantity of hazardous waste generated outside this state 32531  
that will be treated at those facilities; 32532

(4) A determination of the quantity of hazardous waste 32533  
generated in this state that is being treated at commercial 32534  
hazardous waste incinerators located outside this state, and 32535  
projections of the quantity of hazardous waste generated in this 32536  
state that will be treated at those facilities; 32537

(5) The amount of commercial hazardous waste incinerator 32538  
capacity that the director reasonably anticipates will be needed 32539  
during the first three years of the planning period to treat 32540  
hazardous waste generated from the remediation of sites in this 32541  
state that are on the national priority list required under the 32542  
"Comprehensive Environmental Response, Compensation, and Liability 32543  
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; as a 32544  
result of corrective actions implemented under the "Resource 32545  
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 32546  
6921, as amended; and as a result of clean-up activities conducted 32547  
at sites listed on the master sites list prepared by the 32548  
environmental protection agency; 32549

(6) Based upon available data, provided that the data are 32550  
reliable and are compatible with the data base of the 32551  
environmental protection agency, an identification of any 32552  
hazardous waste first listed as a hazardous waste in regulations 32553  
adopted under the "Resource Conservation and Recovery Act of 32554  
1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, on or after 32555  
April 15, 1993, and of any hazardous waste that has been proposed 32556  
for such listing by publication of a notice in the federal 32557  
register on or before December 1 of the year immediately preceding 32558

the triennial assessment; 32559

(7) An analysis of other factors that may result in capacity 32560  
changes over the period addressed by the assessment. 32561

(C) Except as otherwise provided in section 3734.124 of the 32562  
Revised Code, none of the following shall occur on or after April 32563  
15, 1993: 32564

(1) The director shall not do any of the following: 32565

(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 32566  
~~of the Revised Code, as applicable, transmit to the hazardous 32567  
waste facility board created in that section any application for a 32568  
Issue any hazardous waste facility installation and operation 32569  
permit under division (D) of section 3734.05 of the Revised Code 32570  
for the establishment of a new commercial hazardous waste 32571  
incinerator, or any request for a modification, as described in 32572  
divisions (I)(3)(a) to (d) of section 3734.05 of the Revised Code, 32573  
of an existing commercial hazardous waste incinerator to increase 32574  
either the treatment capacity of the incinerator or the quantity 32575  
of hazardous waste authorized to be treated by it, for which the 32576  
staff of the environmental protection agency has made a 32577  
preliminary determination as to whether the application or request 32578  
appears to comply with the rules and standards set forth under 32579  
divisions (D), (I), and (J) of section 3734.12 of the Revised 32580  
Code;~~ 32581

~~(b) Issue~~ issue any modified hazardous waste facility 32582  
installation and operation permit under division (I)(5) of that 32583  
section 3734.05 of the Revised Code that would authorize an 32584  
increase in either the treatment capacity of a commercial 32585  
hazardous waste incinerator or the quantity of hazardous waste 32586  
authorized to be treated by it; 32587

~~(e)~~(b) Issue any permit pursuant to rules adopted under 32588  
division (F) of section 3704.03 of the Revised Code, division (J) 32589

of section 6111.03 of the Revised Code, or the solid waste 32590  
provisions of this chapter and rules adopted under those 32591  
provisions, that is necessary for the establishment, modification, 32592  
or operation of any appurtenant facility or equipment that is 32593  
necessary for the operation of a new commercial hazardous waste 32594  
incinerator, or the modification of such an existing incinerator 32595  
to increase either the treatment capacity of the incinerator or 32596  
the quantity of hazardous waste that is authorized to be treated 32597  
by it. Upon determining that an application for any permit 32598  
pertains to the establishment, modification, or operation of any 32599  
appurtenant facility or equipment, the director shall cease 32600  
reviewing the application and return the application and 32601  
accompanying materials to the applicant along with a written 32602  
notice that division (C)(1)~~(e)~~(b) of this section precludes the 32603  
director from reviewing and acting upon the application. 32604

~~(d)~~(c) Issue any exemption order under division (G) of 32605  
section 3734.02 of the Revised Code exempting the establishment of 32606  
a new commercial hazardous waste incinerator; the modification of 32607  
an existing facility to increase either the treatment capacity of 32608  
the incinerator or the quantity of hazardous waste that is 32609  
authorized to be treated by it; or the establishment, 32610  
modification, or operation of any facility or equipment 32611  
appurtenant to a new or modified commercial hazardous waste 32612  
incinerator, from divisions (C)(1)(a)~~,~~ or (b)~~,~~ ~~or~~ ~~(e)~~ or (C)(2) ~~or~~ 32613  
~~(3)~~ of this section. 32614

(2) ~~The staff of the environmental protection agency shall~~ 32615  
~~not take any action under division (D)(3) of section 3734.05 of~~ 32616  
~~the Revised Code to review, or to make a preliminary determination~~ 32617  
~~of compliance with the rules and standards set forth in divisions~~ 32618  
~~(D), (I), and (J) of section 3734.12 of the Revised Code~~ 32619  
~~regarding, any~~ If the director determines that an application for 32620  
a hazardous waste facility installation and operation permit 32621

submitted under division (D)~~(3)~~ of section 3734.05 of the Revised Code ~~that~~ pertains to the establishment of a new commercial hazardous waste incinerator, or ~~any~~ a request for a modification of an existing incinerator submitted under division (I)~~(4)~~ of that section ~~to modify an existing incinerator~~ pertains to an increase of either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it. ~~Upon determining that an application or request submitted under those divisions pertains to the establishment of a new commercial hazardous waste incinerator or the modification of an existing incinerator,~~ the staff of the agency director shall cease reviewing the application or request and shall return it and the accompanying materials to the applicant along with a written notice that division (C)(2) of this section precludes the ~~staff~~ from reviewing or making any preliminary determination of compliance regarding review of the application or request.

~~(3) The hazardous waste facility board created in section 3734.05 of the Revised Code shall not do either of the following:~~

~~(a) Approve any application for a hazardous waste facility installation and operation permit, or issue any permit, under divisions (D) and (F) of section 3734.05 of the Revised Code that authorizes the establishment and operation of a new commercial hazardous waste incinerator;~~

~~(b) Approve any request to modify an existing commercial hazardous waste incinerator under divisions (D) and (I)(7) of section 3734.05 of the Revised Code that authorizes an increase in either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it.~~

**Sec. 3734.124.** (A) Promptly after issuing a periodic assessment under division (B) of section 3734.123 of the Revised Code, the director of environmental protection shall make a

determination as to whether it is necessary or appropriate to 32653  
continue the restrictions established in division (C) of section 32654  
3734.123 of the Revised Code during the period of time between the 32655  
issuance of the assessment and the issuance of the next succeeding 32656  
periodic assessment or as to whether it is necessary or 32657  
appropriate to terminate the restrictions. The director shall 32658  
consider all of the following when making a determination under 32659  
this division: 32660

(1) The findings of the assessment; 32661

(2) The findings of an evaluation conducted by the director, 32662  
in consultation with the chairperson of the state emergency 32663  
response commission created in section 3750.02 of the Revised 32664  
Code, regarding the capability of this state to respond to the 32665  
types and frequencies of releases of hazardous waste that are 32666  
likely to occur at commercial hazardous waste incinerators; 32667

(3) The effect that a new commercial hazardous waste 32668  
incinerator may have on ambient air quality in this state; 32669

(4) The findings of a review of relevant information 32670  
regarding the impacts of commercial hazardous waste incinerators 32671  
on human health and the environment, such as health studies and 32672  
risk assessments; 32673

(5) The findings of a review of the operational records of 32674  
commercial hazardous waste incinerators operating in this state; 32675

(6) The findings of any review of relevant information 32676  
concerning the following: 32677

(a) The cost of and access to commercial hazardous waste 32678  
incinerator capacity; 32679

(b) The length of time and the regulatory review process 32680  
necessary to fully permit a commercial hazardous waste 32681  
incinerator; 32682

(c) Access to long-term capital investment to fund the building of a commercial hazardous waste incinerator in this state;

(d) Efforts by generators of hazardous waste accepted by commercial hazardous waste incinerators to reduce the amount of hazardous waste that they generate.

(7) Regulatory and legislative concerns that may include, without limitation, the provisions of paragraphs (a) and (b) of 40 C.F.R. 271.4, as they existed on April 15, 1993.

If, after considering all of the information and concerns that the director is required to consider under divisions (A)(1) to (7) of this section, the director determines that it is necessary or appropriate to terminate the restrictions established in division (C) of section 3734.123 of the Revised Code in order to protect human health or safety or the environment, the director shall issue as a final action a written determination to that effect. If the director determines that it is necessary or appropriate for those purposes to continue the restrictions until the issuance of the next succeeding periodic assessment under division (B) of section 3734.123 of the Revised Code, the director shall issue as a final action a written determination to that effect. After the issuance as a final action of a determination under this division that it is necessary or appropriate to terminate the restrictions established in division (C) of section 3734.123 of the Revised Code, the director shall cease making the periodic determinations required under this division.

(B) Beginning three years after April 15, 1993, but only on and after the date of issuance as final actions of an assessment under division (B) of section 3734.123 of the Revised Code and a determination under division (A) of this section that it is necessary or appropriate to terminate the restrictions established

in division (C) of section 3734.123 of the Revised Code, ~~any of~~ 32714  
~~the following may occur:~~ 32715

~~(1) The the director may do any of the following:~~ 32716

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 32717  
of the Revised Code, as applicable, transmit to the hazardous 32718  
waste facility board created in that section an application for a 32719  
hazardous waste facility installation and operation permit that 32720  
pertains to the establishment of a new commercial hazardous waste 32721  
incinerator, or a request for a modification, as described in 32722  
divisions (I)(3)(a) to (d) of section 3734.05 of the Revised Code, 32723  
of a commercial hazardous waste incinerator to increase either the 32724  
treatment capacity of the incinerator or the quantity of hazardous 32725  
waste authorized to be treated by it, for which the staff of the 32726  
environmental protection agency has made a preliminary 32727  
determination as to whether the application or request appears to 32728  
comply with the rules and standards set forth under divisions (D), 32729  
(I), and (K) of section 3734.05 of the Revised Code;~~ 32730

~~(b) To the extent otherwise authorized in division (I)(5) of 32731  
section 3734.05 of the Revised Code, issue a modified hazardous 32732  
waste facility installation and operation permit under that 32733  
division that authorizes an increase in either the treatment 32734  
capacity of a commercial hazardous waste incinerator or the 32735  
quantity of hazardous waste authorized to be treated by it;~~ 32736

~~(e)(1) To the extent otherwise authorized thereunder, issue 32737  
any permit pursuant to rules adopted under division (F) of section 32738  
3704.03 of the Revised Code, division (J) of section 6111.03 of 32739  
the Revised Code, or the solid waste provisions of this chapter 32740  
and rules adopted under those provisions, that is necessary for 32741  
the establishment, modification, or operation of any appurtenant 32742  
facility or equipment that is necessary for the operation of a new 32743  
commercial hazardous waste incinerator, or for the modification of 32744  
an existing incinerator to increase either the treatment capacity 32745~~

of the incinerator or the quantity of hazardous waste authorized 32746  
to be treated by it; 32747

~~(d)(2)~~ To the extent otherwise authorized in division (G) of 32748  
section 3734.02 of the Revised Code, issue an order exempting the 32749  
establishment of a new commercial hazardous waste incinerator; the 32750  
modification of an existing incinerator to increase either the 32751  
treatment capacity of the incinerator or the quantity of hazardous 32752  
waste that is authorized to be treated by it; or the 32753  
establishment, modification, or operation of any facility or 32754  
equipment appurtenant to a new or modified commercial hazardous 32755  
waste incinerator, from division (C)(1)(a), or (b), ~~or (e)~~ or 32756  
(C)(2) ~~or (3)~~ of section 3734.123 of the Revised Code. 32757

~~(2) The staff of the environmental protection agency may do 32758  
both of the following: 32759~~

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 32760  
of the Revised Code, review an application for a hazardous waste 32761  
facility installation and operation permit to establish a new 32762  
commercial hazardous waste incinerator or a request to modify an 32763  
existing incinerator to increase either the treatment capacity of 32764  
the incinerator or the quantity of hazardous waste authorized to 32765  
be treated by it; 32766~~

~~(b) Pursuant to division (D)(3) or (I)(4) of section 3734.05 32767  
of the Revised Code, make a preliminary determination as to 32768  
whether an application for a hazardous waste facility permit to 32769  
install and operate a new commercial hazardous waste incinerator 32770  
or a request to modify an existing incinerator to increase either 32771  
the treatment capacity of the incinerator or the quantity of 32772  
hazardous waste authorized to be treated by it appears to comply 32773  
with the rules and performance standards set forth under divisions 32774  
(D), (I), and (J) of section 3734.12 of the Revised Code. 32775~~

~~(3) The hazardous waste facility board may do both of the 32776~~



following: 32777

(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; 32778  
32779  
32780  
32781

~~(b) Under divisions (D) and (I)(7) of that section, approve~~ 32782  
(4) Approve or disapprove under division (I) of section 3734.05 of 32783  
the Revised Code a request to modify the permit of an existing 32784  
commercial hazardous waste incinerator to increase either the 32785  
treatment capacity of the incinerator or the quantity of hazardous 32786  
waste authorized to be treated by it. 32787

**Sec. 3734.18.** (A) There are hereby levied fees on the 32788  
disposal of hazardous waste to be collected according to the 32789  
following schedule at each disposal facility to which ~~the~~ 32790  
~~hazardous waste facility board has issued~~ a hazardous waste 32791  
facility installation and operation permit or ~~the director of~~ 32792  
~~environmental protection has issued a renewal of a permit pursuant~~ 32793  
~~to section 3734.05 of the Revised Code~~ has been issued under this 32794  
chapter: 32795

(1) For disposal facilities that are off-site facilities as 32796  
defined in division (E) of section 3734.02 of the Revised Code, 32797  
fees shall be levied at the rate of four dollars and fifty cents 32798  
per ton for hazardous waste disposed of by deep well injection and 32799  
nine dollars per ton for hazardous waste disposed of by land 32800  
application or landfilling. The owner or operator of the facility, 32801  
as a trustee for the state, shall collect the fees and forward 32802  
them to the director in accordance with rules adopted under this 32803  
section. 32804

(2) For disposal facilities that are on-site or satellite 32805  
facilities, as defined in division (E) of section 3734.02 of the 32806  
Revised Code, fees shall be levied at the rate of two dollars per 32807

ton for hazardous waste disposed of by deep well injection and 32808  
four dollars per ton for hazardous waste disposed of by land 32809  
application or landfilling. The maximum annual disposal fee for an 32810  
on-site disposal facility that disposes of one hundred thousand 32811  
tons or less of hazardous waste in a year is twenty-five thousand 32812  
dollars. The maximum annual disposal fee for an on-site facility 32813  
that disposes of more than one hundred thousand tons of hazardous 32814  
waste in a year by land application or landfilling is fifty 32815  
thousand dollars, and the maximum annual fee for an on-site 32816  
facility that disposes of more than one hundred thousand tons of 32817  
hazardous waste in a year by deep well injection is one hundred 32818  
thousand dollars. The maximum annual disposal fee for a satellite 32819  
facility that disposes of one hundred thousand tons or less of 32820  
hazardous waste in a year is thirty-seven thousand five hundred 32821  
dollars, and the maximum annual disposal fee for a satellite 32822  
facility that disposes of more than one hundred thousand tons of 32823  
hazardous waste in a year is seventy-five thousand dollars, except 32824  
that a satellite facility defined under division (E)(3)(b) of 32825  
section 3734.02 of the Revised Code that receives hazardous waste 32826  
from a single generation site is subject to the same maximum 32827  
annual disposal fees as an on-site disposal facility. The owner or 32828  
operator shall pay the fee to the director each year upon the 32829  
anniversary of the date of issuance of the owner's or operator's 32830  
installation and operation permit during the term of that permit 32831  
and any renewal permit issued under division (H) of section 32832  
3734.05 of the Revised Code. If payment is late, the owner or 32833  
operator shall pay an additional ten per cent of the amount of the 32834  
fee for each month that it is late. 32835

(B) There are hereby levied fees at the rate of two dollars 32836  
per ton on hazardous waste that is treated at treatment facilities 32837  
that are not on-site or satellite facilities, as defined in 32838  
division (E) of section 3734.02 of the Revised Code, to which ~~the~~ 32839  
~~hazardous waste facility board has issued~~ a hazardous waste 32840

facility installation and operation permit or ~~the director renewal~~ 32841  
~~of a permit~~ has been issued ~~a renewal permit under this chapter,~~ 32842  
or that are not subject to the hazardous waste facility 32843  
installation and operation permit requirements under rules adopted 32844  
by the director. 32845

(C) There are hereby levied additional fees on the treatment 32846  
and disposal of hazardous waste at the rate of ten per cent of the 32847  
applicable fees prescribed in division (A) or (B) of this section 32848  
for the purposes of paying the costs of municipal corporations and 32849  
counties for conducting reviews of applications for hazardous 32850  
waste facility installation and operation permits for proposed new 32851  
or modified hazardous waste landfills within their boundaries, 32852  
emergency response actions with respect to releases of hazardous 32853  
waste from hazardous waste facilities within their boundaries, 32854  
monitoring the operation of such hazardous waste facilities, and 32855  
local waste management planning programs. The owner or operator of 32856  
a facility located within a municipal corporation, as a trustee 32857  
for the municipal corporation, shall collect the fees levied by 32858  
this division and forward them to the treasurer of the municipal 32859  
corporation or such officer as, by virtue of the charter, has the 32860  
duties of the treasurer in accordance with rules adopted under 32861  
this section. The owner or operator of a facility located in an 32862  
unincorporated area, as a trustee of the county in which the 32863  
facility is located, shall collect the fees levied by this 32864  
division and forward them to the county treasurer of that county 32865  
in accordance with rules adopted under this section. The owner or 32866  
operator shall pay the fees levied by this division to the 32867  
treasurer or such other officer of the municipal corporation or to 32868  
the county treasurer each year upon the anniversary of the date of 32869  
issuance of the owner's or operator's installation and operation 32870  
permit during the term of that permit and any renewal permit 32871  
issued under division (H) of section 3734.05 of the Revised Code. 32872  
If payment is late, the owner or operator shall pay an additional 32873

ten per cent of the amount of the fee for each month that the 32874  
payment is late. 32875

Moneys received by a municipal corporation under this 32876  
division shall be paid into a special fund of the municipal 32877  
corporation and used exclusively for the purposes of conducting 32878  
reviews of applications for hazardous waste facility installation 32879  
and operation permits for new or modified hazardous waste 32880  
landfills located or proposed within the municipal corporation, 32881  
conducting emergency response actions with respect to releases of 32882  
hazardous waste from facilities located within the municipal 32883  
corporation, monitoring operation of such hazardous waste 32884  
facilities, and conducting waste management planning programs 32885  
within the municipal corporation through employees of the 32886  
municipal corporation or pursuant to contracts entered into with 32887  
persons or political subdivisions. Moneys received by a board of 32888  
county commissioners under this division shall be paid into a 32889  
special fund of the county and used exclusively for those purposes 32890  
within the unincorporated area of the county through employees of 32891  
the county or pursuant to contracts entered into with persons or 32892  
political subdivisions. 32893

(D) As used in this section, "treatment" or "treated" does 32894  
not include any method, technique, or process designed to recover 32895  
energy or material resources from the waste or to render the waste 32896  
amenable for recovery. The fees levied by division (B) of this 32897  
section do not apply to hazardous waste that is treated and 32898  
disposed of on the same premises or by the same person. 32899

(E) The director, by rules adopted in accordance with 32900  
Chapters 119. and 3745. of the Revised Code, shall prescribe any 32901  
dates not specified in this section and procedures for collecting 32902  
and forwarding the fees prescribed by this section and may 32903  
prescribe other requirements that are necessary to carry out this 32904  
section. 32905

The director shall deposit the moneys collected under 32906  
divisions (A) and (B) of this section into one or more minority 32907  
banks, as "minority bank" is defined in division (F)(1) of section 32908  
135.04 of the Revised Code, to the credit of the hazardous waste 32909  
facility management fund, which is hereby created in the state 32910  
treasury, except that the director shall deposit to the credit of 32911  
the underground injection control fund created in section 6111.046 32912  
of the Revised Code moneys in excess of fifty thousand dollars 32913  
that are collected during a fiscal year under division (A)(2) of 32914  
this section from the fee levied on the disposal of hazardous 32915  
waste by deep well injection at an on-site disposal facility that 32916  
disposes of more than one hundred thousand tons of hazardous waste 32917  
in a year. 32918

The environmental protection agency ~~and the hazardous waste~~ 32919  
~~facility board~~ may use moneys in the hazardous waste facility 32920  
management fund for administration of the hazardous waste program 32921  
established under this chapter and, in accordance with this 32922  
section, may request approval by the controlling board for that 32923  
use on an annual basis. In addition, the agency may use and pledge 32924  
moneys in that fund for repayment of and for interest on any loans 32925  
made by the Ohio water development authority to the agency for the 32926  
hazardous waste program established under this chapter without the 32927  
necessity of requesting approval by the controlling board, which 32928  
use and pledge shall have priority over any other use of the 32929  
moneys in the fund. 32930

Until September 28, 1996, the director also may use moneys in 32931  
the fund to pay the start-up costs of administering Chapter 3746. 32932  
of the Revised Code. 32933

If moneys in the fund that the agency uses in accordance with 32934  
this chapter are reimbursed by grants or other moneys from the 32935  
United States government, the grants or other moneys shall be 32936  
placed in the fund. 32937

Before the agency makes any expenditure from the fund other 32938  
than for repayment of and interest on any loan made by the Ohio 32939  
water development authority to the agency in accordance with this 32940  
section, the controlling board shall approve the expenditure. 32941

**Sec. 3734.28.** All moneys collected under sections 3734.122, 32942  
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 32943  
Code and natural resource damages collected by the state under the 32944  
"Comprehensive Environmental Response, Compensation, and Liability 32945  
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall 32946  
be paid into the state treasury to the credit of the hazardous 32947  
waste clean-up fund, which is hereby created. The environmental 32948  
protection agency shall use the moneys in the fund for the 32949  
purposes set forth in division (D) of section 3734.122, sections 32950  
3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, 32951  
and, through ~~June 30, 2003~~ October 15, 2005, divisions (A)(1) and 32952  
(2) of section 3745.12 and Chapter 3746. of the Revised Code, 32953  
including any related enforcement expenses. In addition, the 32954  
agency shall use the moneys in the fund to pay the state's 32955  
long-term operation and maintenance costs or matching share for 32956  
actions taken under the "Comprehensive Environmental Response, 32957  
Compensation, and Liability Act of 1980," as amended. If those 32958  
moneys are reimbursed by grants or other moneys from the United 32959  
States or any other person, the moneys shall be placed in the fund 32960  
and not in the general revenue fund. 32961

**Sec. 3734.42.** (A)(1) Except as otherwise provided in division 32962  
(E)(2) of this section, every applicant for a permit other than a 32963  
permit modification or renewal shall file a disclosure statement, 32964  
on a form developed by the attorney general, with the director of 32965  
environmental protection and the attorney general at the same time 32966  
the applicant files an application for a permit other than a 32967  
permit modification or renewal with the director. 32968

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(2) Any individual required to be listed in the disclosure statement shall be fingerprinted for identification and investigation purposes in accordance with procedures established by the attorney general. An individual required to be fingerprinted under this section shall not be required to be fingerprinted more than once under this section.

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(3) The attorney general, within one hundred eighty days after receipt of the disclosure statement from an applicant for a permit, shall prepare and transmit to the director an investigative report on the applicant, based in part upon the disclosure statement, except that this deadline may be extended for a reasonable period of time, for good cause, by the director or the attorney general. In preparing this report, the attorney general may request and receive criminal history information from the federal bureau of investigation and any other law enforcement agency or organization. The attorney general may provide such confidentiality regarding the information received from a law enforcement agency as may be imposed by that agency as a condition for providing that information to the attorney general.

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(4) The review of the application by the director ~~or the hazardous waste facility board~~ shall include a review of the disclosure statement and investigative report.

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(B) All applicants and permittees shall provide any assistance or information requested by the director or the attorney general and shall cooperate in any inquiry or investigation conducted by the attorney general and any inquiry, investigation, or hearing conducted by the director ~~or the hazardous waste facility board~~. If, upon issuance of a formal request to answer any inquiry or produce information, evidence, or testimony, any applicant or permittee, any officer, director, or partner of any business concern, or any key employee of the

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applicant or permittee refuses to comply, the permit of the 33001  
applicant or permittee may be denied or revoked by the director ~~or~~ 33002  
~~the board.~~ 33003

(C) The attorney general may charge and collect such fees 33004  
from applicants and permittees as are necessary to cover the costs 33005  
of administering and enforcing the investigative procedures 33006  
authorized in sections 3734.41 to 3734.47 of the Revised Code. The 33007  
attorney general shall transmit moneys collected under this 33008  
division to the treasurer of state to be credited to the solid and 33009  
hazardous waste background investigations fund, which is hereby 33010  
created in the state treasury. Moneys in the fund shall be used 33011  
solely for paying the attorney general's costs of administering 33012  
and enforcing the investigative procedures authorized in sections 33013  
3734.41 to 3734.47 of the Revised Code. 33014

(D) Annually on the anniversary date of the submission to the 33015  
director by the attorney general of the investigative report for a 33016  
specific facility, or annually on another date assigned by the 33017  
attorney general, the appropriate applicant, permittee, or 33018  
prospective owner shall submit to the attorney general, on a form 33019  
provided by the attorney general, any and all information required 33020  
to be included in a disclosure statement that has changed or been 33021  
added in the immediately preceding year. If, in the immediately 33022  
preceding year, there have been no changes in or additions to the 33023  
information required to be included in a disclosure statement, the 33024  
appropriate applicant, permittee, or prospective owner shall 33025  
submit to the attorney general an affidavit stating that there 33026  
have been no changes in or additions to that information during 33027  
that time period. 33028

Notwithstanding the requirement for an annual submission of 33029  
information, the following information shall be submitted within 33030  
the periods specified: 33031

(1) Information required to be included in the disclosure 33032



statement for any new officer, director, partner, or key employee, 33033  
to be submitted within ninety days from the addition of the 33034  
officer, director, partner, or key employee; 33035

(2) Information required to be included in a disclosure 33036  
statement for any new business concern, to be submitted within 33037  
ninety days from the addition of the new business concern; 33038

(3) Information regarding any new criminal conviction, to be 33039  
submitted within ninety days from the judgment entry of 33040  
conviction. 33041

The failure to provide such information may constitute the 33042  
basis for the revocation or denial of renewal of any permit or 33043  
license issued in accordance with this chapter, provided that 33044  
prior to any such denial or revocation, the director shall notify 33045  
the applicant or permittee of the director's intention to do so 33046  
and give the applicant or permittee fourteen days from the date of 33047  
the notice to explain why the information was not provided. The 33048  
director shall consider this information when determining whether 33049  
to revoke or deny the permit or license. 33050

Nothing in this division affects the rights of the director 33051  
or the attorney general granted under sections 3734.40 to 3734.47 33052  
of the Revised Code to request information from a person at any 33053  
other time. 33054

(E)(1) Except as otherwise provided in division (E)(2) of 33055  
this section, every permittee who is not otherwise required to 33056  
file a disclosure statement shall file a disclosure statement 33057  
within five years after June 24, 1988, pursuant to a schedule for 33058  
submissions of disclosure statements developed by the attorney 33059  
general. The schedule shall provide all permittees and holders of 33060  
a license with at least one hundred eighty days' notice prior to 33061  
the date upon which the statement is to be submitted. All other 33062  
terms of the schedule shall be established at the discretion of 33063

the attorney general and shall not be subject to judicial review. 33064

(2) An applicant for a permit for an off-site solid waste 33065  
facility that is a scrap tire storage, monocell, monofill, or 33066  
recovery facility issued under section 3734.76, 3734.77, or 33067  
3734.78 of the Revised Code, as applicable, shall file a 33068  
disclosure statement within five years after October 29, 1993, 33069  
pursuant to a schedule for submissions of disclosure statements 33070  
developed by the attorney general. The schedule shall provide all 33071  
such applicants with at least one hundred eighty days' notice 33072  
prior to the date upon which the statement shall be submitted. All 33073  
other terms of the schedule shall be established at the discretion 33074  
of the attorney general and shall not be subject to judicial 33075  
review. 33076

Beginning five years after October 29, 1993, an applicant for 33077  
such a permit shall file a disclosure statement in accordance with 33078  
division (A)(1) of this section. 33079

(3) When a permittee submits a disclosure statement at the 33080  
time it submits an application for a renewal or modification of 33081  
its permit, the attorney general shall remove the permittee from 33082  
the submission schedule established pursuant to division (E)(1) or 33083  
(2) of this section. 33084

(4) After receiving a disclosure statement under division 33085  
(E)(1) or (2) of this section, the attorney general shall prepare 33086  
an investigative report and transmit it to the director. The 33087  
director shall review the disclosure statement and investigative 33088  
report to determine whether the statement or report contains 33089  
information that if submitted with a permit application would 33090  
require a denial of the permit pursuant to section 3734.44 of the 33091  
Revised Code. If the director determines that the statement or 33092  
report contains such information, the director may revoke any 33093  
previously issued permit pursuant to section 3734.45 of the 33094  
Revised Code, or the director shall deny any application for a 33095

renewal of a permit or license. When the renewal of the license is 33096  
being performed by a board of health, the director shall instruct 33097  
the board of health about those circumstances under which the 33098  
renewal is required to be denied by this section. 33099

(F)(1) Whenever there is a change in ownership of any 33100  
off-site solid waste facility, including incinerators, any 33101  
transfer facility, any off-site infectious waste treatment 33102  
facility, or any off-site hazardous waste treatment, storage, or 33103  
disposal facility, the prospective owner shall file a disclosure 33104  
statement with the attorney general and the director at least one 33105  
hundred eighty days prior to the proposed change in ownership. 33106  
Upon receipt of the disclosure statement, the attorney general 33107  
shall prepare an investigative report and transmit it to the 33108  
director. The director shall review the disclosure statement and 33109  
investigative report to determine whether the statement or report 33110  
contains information that if submitted with a permit application 33111  
would require a denial of the permit pursuant to section 3734.44 33112  
of the Revised Code. If the director determines that the statement 33113  
or report contains such information, the director shall disapprove 33114  
the change in ownership. 33115

(2) If the parties to a change in ownership decide to proceed 33116  
with the change prior to the action of the director on the 33117  
disclosure statement and investigative report, the parties shall 33118  
include in all contracts or other documents reflecting the change 33119  
in ownership language expressly making the change in ownership 33120  
subject to the approval of the director and expressly negating the 33121  
change if it is disapproved by the director pursuant to division 33122  
(F)(1) of this section. 33123

(3) As used in this section, "change in ownership" includes 33124  
any change in the names, other than those of officers, directors, 33125  
partners, or key employees, contained in the disclosure statement. 33126

**Sec. 3734.44.** Notwithstanding the provisions of any law to 33127  
the contrary, no permit or license shall be issued or renewed by 33128  
the director of environmental protection, ~~the hazardous waste~~ 33129  
~~facility board,~~ or a board of health: 33130

(A) Unless the director, ~~the hazardous waste facility board,~~ 33131  
or the board of health finds that the applicant, in any prior 33132  
performance record in the transportation, transfer, treatment, 33133  
storage, or disposal of solid wastes, infectious wastes, or 33134  
hazardous waste, has exhibited sufficient reliability, expertise, 33135  
and competency to operate the solid waste, infectious waste, or 33136  
hazardous waste facility, given the potential for harm to human 33137  
health and the environment that could result from the 33138  
irresponsible operation of the facility, or, if no prior record 33139  
exists, that the applicant is likely to exhibit that reliability, 33140  
expertise, and competence; 33141

(B) If any individual or business concern required to be 33142  
listed in the disclosure statement or shown to have a beneficial 33143  
interest in the business of the applicant or the permittee, other 33144  
than an equity interest or debt liability, by the investigation 33145  
thereof, has been convicted of any of the following crimes under 33146  
the laws of this state or equivalent laws of any other 33147  
jurisdiction: 33148

- (1) Murder; 33149
- (2) Kidnapping; 33150
- (3) Gambling; 33151
- (4) Robbery; 33152
- (5) Bribery; 33153
- (6) Extortion; 33154
- (7) Criminal usury; 33155

(8) Arson;	33156
(9) Burglary;	33157
(10) Theft and related crimes;	33158
(11) Forgery and fraudulent practices;	33159
(12) Fraud in the offering, sale, or purchase of securities;	33160
(13) Alteration of motor vehicle identification numbers;	33161
(14) Unlawful manufacture, purchase, use, or transfer of firearms;	33162 33163
(15) Unlawful possession or use of destructive devices or explosives;	33164 33165
(16) Violation of section 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.32, or 2925.37 or Chapter 3719. of the Revised Code, unless the violation is for possession of less than one hundred grams of marihuana, less than five grams of marihuana resin or extraction or preparation of marihuana resin, or less than one gram of marihuana resin in a liquid concentrate, liquid extract, or liquid distillate form;	33166 33167 33168 33169 33170 33171 33172
(17) Engaging in a pattern of corrupt activity under section 2923.32 of the Revised Code;	33173 33174
(18) Violation of criminal provisions of Chapter 1331. of the Revised Code;	33175 33176
(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;	33177 33178 33179 33180
(20) Violation of Chapter 2909. of the Revised Code;	33181
(21) Any offense specified in Chapter 2921. of the Revised Code.	33182 33183

(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 facility board,~~ or the board of health shall request a recommendation on the matter from the attorney general and shall consider and base the determination on the following factors:

- (1) The nature and responsibilities of the position a convicted individual would hold;
- (2) The nature and seriousness of the offense;
- (3) The circumstances under which the offense occurred;
- (4) The date of the offense;
- (5) The age of the individual when the offense was committed;
- (6) Whether the offense was an isolated or repeated incident;
- (7) Any social conditions that may have contributed to the

offense; 33214

(8) Any evidence of rehabilitation, including good conduct in 33215  
prison or in the community, counseling or psychiatric treatment 33216  
received, acquisition of additional academic or vocational 33217  
schooling, successful participation in correctional work release 33218  
programs, or the recommendation of persons who have or have had 33219  
the applicant under their supervision; 33220

(9) In the instance of an applicant that is a business 33221  
concern, rehabilitation shall be established if the applicant has 33222  
implemented formal management controls to minimize and prevent the 33223  
occurrence of violations and activities that will or may result in 33224  
permit or license denial or revocation or if the applicant has 33225  
formalized those controls as a result of a revocation or denial of 33226  
a permit or license. Those controls may include, but are not 33227  
limited to, instituting environmental auditing programs to help 33228  
ensure the adequacy of internal systems to achieve, maintain, and 33229  
monitor compliance with applicable environmental laws and 33230  
standards or instituting an antitrust compliance auditing program 33231  
to help ensure full compliance with applicable antitrust laws. The 33232  
business concern shall prove by a preponderance of the evidence 33233  
that the management controls are effective in preventing the 33234  
violations that are the subject of concern. 33235

(D) Unless the director, ~~the hazardous waste facility board,~~ 33236  
or the board of health finds that the applicant has a history of 33237  
compliance with environmental laws in this state and other 33238  
jurisdictions and is presently in substantial compliance with, or 33239  
on a legally enforceable schedule that will result in compliance 33240  
with, environmental laws in this state and other jurisdictions; ~~i~~ 33241

(E) With respect to the approval of a permit, if the director 33242  
~~or the hazardous waste facility board~~ determines that current 33243  
prosecutions or pending charges in any jurisdiction for any of the 33244  
offenses enumerated in division (B) of this section against any 33245

individual or business concern required to be listed in the 33246  
disclosure statement or shown by the investigation to have a 33247  
beneficial interest in the business of the applicant other than an 33248  
equity interest or debt liability are of such magnitude that they 33249  
prevent making the finding required under division (A) of this 33250  
section, provided that at the request of the applicant or the 33251  
individual or business concern charged, the director ~~or the~~ 33252  
~~hazardous waste facility board~~ shall defer decision upon the 33253  
application during the pendency of the charge. 33254

**Sec. 3734.46.** Notwithstanding the disqualification of the 33255  
applicant or permittee pursuant to this chapter, the director of 33256  
environmental protection, ~~hazardous waste facility board~~, or the 33257  
board of health may issue or renew a permit or license if the 33258  
applicant or permittee severs the interest of or affiliation with 33259  
the individual or business concern that would otherwise cause that 33260  
disqualification or may issue or renew a license on a temporary 33261  
basis for a period not to exceed six months if the director or the 33262  
board of health determines that the issuance or renewal of the 33263  
permit or license is necessitated by the public interest. 33264

**Sec. 3734.57.** (A) For the purposes of paying the state's 33265  
long-term operation costs or matching share for actions taken 33266  
under the "Comprehensive Environmental Response, Compensation, and 33267  
Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as 33268  
amended; paying the costs of measures for proper clean-up of sites 33269  
where polychlorinated biphenyls and substances, equipment, and 33270  
devices containing or contaminated with polychlorinated biphenyls 33271  
have been stored or disposed of; paying the costs of conducting 33272  
surveys or investigations of solid waste facilities or other 33273  
locations where it is believed that significant quantities of 33274  
hazardous waste were disposed of and for conducting enforcement 33275  
actions arising from the findings of such surveys or 33276



investigations; paying the costs of acquiring and cleaning up, or 33277  
providing financial assistance for cleaning up, any hazardous 33278  
waste facility or solid waste facility containing significant 33279  
quantities of hazardous waste, that constitutes an imminent and 33280  
substantial threat to public health or safety or the environment; 33281  
and, from July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006, for the 33282  
purposes of paying the costs of administering and enforcing the 33283  
laws pertaining to solid wastes, infectious wastes, and 33284  
construction and demolition debris, including, without limitation, 33285  
ground water evaluations related to solid wastes, infectious 33286  
wastes, and construction and demolition debris, under this chapter 33287  
and Chapter 3714. of the Revised Code and any rules adopted under 33288  
them, and paying a share of the administrative costs of the 33289  
environmental protection agency pursuant to section 3745.014 of 33290  
the Revised Code, the following fees are hereby levied on the 33291  
disposal of solid wastes in this state: 33292

(1) One dollar per ton on and after July 1, 1993; 33293

(2) An additional ~~seventy five cents~~ one dollar per ton on 33294  
and after July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006. 33295

The owner or operator of a solid waste disposal facility 33296  
shall collect the fees levied under this division as a trustee for 33297  
the state and shall prepare and file with the director of 33298  
environmental protection monthly returns indicating the total 33299  
tonnage of solid wastes received for disposal at the gate of the 33300  
facility and the total amount of the fees collected under this 33301  
division. Not later than thirty days after the last day of the 33302  
month to which such a return applies, the owner or operator shall 33303  
mail to the director the return for that month together with the 33304  
fees collected during that month as indicated on the return. The 33305  
owner or operator may request an extension of not more than thirty 33306  
days for filing the return and remitting the fees, provided that 33307  
the owner or operator has submitted such a request in writing to 33308

the director together with a detailed description of why the 33309  
extension is requested, the director has received the request not 33310  
later than the day on which the return is required to be filed, 33311  
and the director has approved the request. If the fees are not 33312  
remitted within sixty days after the last day of the month during 33313  
which they were collected, the owner or operator shall pay an 33314  
additional fifty per cent of the amount of the fees for each month 33315  
that they are late. 33316

One-half of the moneys remitted to the director under 33317  
division (A)(1) of this section shall be credited to the hazardous 33318  
waste facility management fund created in section 3734.18 of the 33319  
Revised Code, and one-half shall be credited to the hazardous 33320  
waste clean-up fund created in section 3734.28 of the Revised 33321  
Code. The moneys remitted to the director under division (A)(2) of 33322  
this section shall be credited to the solid waste fund, which is 33323  
hereby created in the state treasury. The environmental protection 33324  
agency shall use moneys in the solid waste fund only to pay the 33325  
costs of administering and enforcing the laws pertaining to solid 33326  
wastes, infectious wastes, and construction and demolition debris, 33327  
including, without limitation, ground water evaluations related to 33328  
solid wastes, infectious wastes, and construction and demolition 33329  
debris, under this chapter and Chapter 3714. of the Revised Code 33330  
and rules adopted under them and to pay a share of the 33331  
administrative costs of the environmental protection agency 33332  
pursuant to section 3745.014 of the Revised Code. 33333

The fees levied under this division and divisions (B) and (C) 33334  
of this section are in addition to all other applicable fees and 33335  
taxes and shall be added to any other fee or amount specified in a 33336  
contract that is charged by the owner or operator of a solid waste 33337  
disposal facility or to any other fee or amount that is specified 33338  
in a contract entered into on or after March 4, 1992, and that is 33339  
charged by a transporter of solid wastes. 33340

(B) For the purpose of preparing, revising, and implementing 33341  
the solid waste management plan of the county or joint solid waste 33342  
management district, including, without limitation, the 33343  
development and implementation of solid waste recycling or 33344  
reduction programs; providing financial assistance to boards of 33345  
health within the district, if solid waste facilities are located 33346  
within the district, for the enforcement of this chapter and rules 33347  
adopted and orders and terms and conditions of permits, licenses, 33348  
and variances issued under it, other than the hazardous waste 33349  
provisions of this chapter and rules adopted and orders and terms 33350  
and conditions of permits issued under those provisions; providing 33351  
financial assistance to the county to defray the added costs of 33352  
maintaining roads and other public facilities and of providing 33353  
emergency and other public services resulting from the location 33354  
and operation of a solid waste facility within the county under 33355  
the district's approved solid waste management plan; paying the 33356  
costs incurred by boards of health for collecting and analyzing 33357  
water samples from public or private wells on lands adjacent to 33358  
solid waste facilities that are contained in the approved or 33359  
amended plan of the district; paying the costs of developing and 33360  
implementing a program for the inspection of solid wastes 33361  
generated outside the boundaries of this state that are disposed 33362  
of at solid waste facilities included in the district's approved 33363  
solid waste management plan or amended plan; providing financial 33364  
assistance to boards of health within the district for enforcing 33365  
laws prohibiting open dumping; providing financial assistance to 33366  
local law enforcement agencies within the district for enforcing 33367  
laws and ordinances prohibiting littering; providing financial 33368  
assistance to boards of health of health districts within the 33369  
district that are on the approved list under section 3734.08 of 33370  
the Revised Code for the training and certification required for 33371  
their employees responsible for solid waste enforcement by rules 33372  
adopted under division (L) of section 3734.02 of the Revised Code; 33373

providing financial assistance to individual municipal 33374  
corporations and townships within the district to defray their 33375  
added costs of maintaining roads and other public facilities and 33376  
of providing emergency and other public services resulting from 33377  
the location and operation within their boundaries of a 33378  
composting, energy or resource recovery, incineration, or 33379  
recycling facility that either is owned by the district or is 33380  
furnishing solid waste management facility or recycling services 33381  
to the district pursuant to a contract or agreement with the board 33382  
of county commissioners or directors of the district; and payment 33383  
of any expenses that are agreed to, awarded, or ordered to be paid 33384  
under section 3734.35 of the Revised Code and of any 33385  
administrative costs incurred pursuant to that section, the solid 33386  
waste management policy committee of a county or joint solid waste 33387  
management district may levy fees upon the following activities: 33388

(1) The disposal at a solid waste disposal facility located 33389  
in the district of solid wastes generated within the district; 33390

(2) The disposal at a solid waste disposal facility within 33391  
the district of solid wastes generated outside the boundaries of 33392  
the district, but inside this state; 33393

(3) The disposal at a solid waste disposal facility within 33394  
the district of solid wastes generated outside the boundaries of 33395  
this state. 33396

If any such fees are levied prior to January 1, 1994, fees 33397  
levied under division (B)(1) of this section always shall be equal 33398  
to one-half of the fees levied under division (B)(2) of this 33399  
section, and fees levied under division (B)(3) of this section, 33400  
which shall be in addition to fees levied under division (B)(2) of 33401  
this section, always shall be equal to fees levied under division 33402  
(B)(1) of this section, except as otherwise provided in this 33403  
division. The solid waste management plan of the county or joint 33404  
district approved under section 3734.521 or 3734.55 of the Revised 33405

Code and any amendments to it, or the resolution adopted under 33406  
this division, as appropriate, shall establish the rates of the 33407  
fees levied under divisions (B)(1), (2), and (3) of this section, 33408  
if any, and shall specify whether the fees are levied on the basis 33409  
of tons or cubic yards as the unit of measurement. Although the 33410  
fees under divisions (A)(1) and (2) of this section are levied on 33411  
the basis of tons as the unit of measurement, the solid waste 33412  
management plan of the district and any amendments to it or the 33413  
solid waste management policy committee in its resolution levying 33414  
fees under this division may direct that the fees levied under 33415  
those divisions be levied on the basis of cubic yards as the unit 33416  
of measurement based upon a conversion factor of three cubic yards 33417  
per ton generally or one cubic yard per ton for baled wastes if 33418  
the fees under divisions (B)(1) to (3) of this section are being 33419  
levied on the basis of cubic yards as the unit of measurement 33420  
under the plan, amended plan, or resolution. 33421

On and after January 1, 1994, the fee levied under division 33422  
(B)(1) of this section shall be not less than one dollar per ton 33423  
nor more than two dollars per ton, the fee levied under division 33424  
(B)(2) of this section shall be not less than two dollars per ton 33425  
nor more than four dollars per ton, and the fee levied under 33426  
division (B)(3) of this section shall be not more than the fee 33427  
levied under division (B)(1) of this section, except as otherwise 33428  
provided in this division and notwithstanding any schedule of 33429  
those fees established in the solid waste management plan of a 33430  
county or joint district approved under section 3734.55 of the 33431  
Revised Code or a resolution adopted and ratified under this 33432  
division that is in effect on that date. If the fee that a 33433  
district is levying under division (B)(1) of this section on that 33434  
date under its approved plan or such a resolution is less than one 33435  
dollar per ton, the fee shall be one dollar per ton on and after 33436  
January 1, 1994, and if the fee that a district is so levying 33437  
under that division exceeds two dollars per ton, the fee shall be 33438

two dollars per ton on and after that date. If the fee that a 33439  
district is so levying under division (B)(2) of this section is 33440  
less than two dollars per ton, the fee shall be two dollars per 33441  
ton on and after that date, and if the fee that the district is so 33442  
levying under that division exceeds four dollars per ton, the fee 33443  
shall be four dollars per ton on and after that date. On that 33444  
date, the fee levied by a district under division (B)(3) of this 33445  
section shall be equal to the fee levied under division (B)(1) of 33446  
this section. Except as otherwise provided in this division, the 33447  
fees established by the operation of this amendment shall remain 33448  
in effect until the district's resolution levying fees under this 33449  
division is amended or repealed in accordance with this division 33450  
to amend or abolish the schedule of fees, the schedule of fees is 33451  
amended or abolished in an amended plan of the district approved 33452  
under section 3734.521 or division (A) or (D) of section 3734.56 33453  
of the Revised Code, or the schedule of fees is amended or 33454  
abolished through an amendment to the district's plan under 33455  
division (E) of section 3734.56 of the Revised Code; the 33456  
notification of the amendment or abolishment of the fees has been 33457  
given in accordance with this division; and collection of the 33458  
amended fees so established commences, or collection of the fees 33459  
ceases, in accordance with this division. 33460

The solid waste management policy committee of a district 33461  
levying fees under divisions (B)(1) to (3) of this section on 33462  
October 29, 1993, under its solid waste management plan approved 33463  
under section 3734.55 of the Revised Code or a resolution adopted 33464  
and ratified under this division that are within the ranges of 33465  
rates prescribed by this amendment, by adoption of a resolution 33466  
not later than December 1, 1993, and without the necessity for 33467  
ratification of the resolution under this division, may amend 33468  
those fees within the prescribed ranges, provided that the 33469  
estimated revenues from the amended fees will not substantially 33470  
exceed the estimated revenues set forth in the district's budget 33471

for calendar year 1994. Not later than seven days after the 33472  
adoption of such a resolution, the committee shall notify by 33473  
certified mail the owner or operator of each solid waste disposal 33474  
facility that is required to collect the fees of the adoption of 33475  
the resolution and of the amount of the amended fees. Collection 33476  
of the amended fees shall take effect on the first day of the 33477  
first month following the month in which the notification is sent 33478  
to the owner or operator. The fees established in such a 33479  
resolution shall remain in effect until the district's resolution 33480  
levying fees that was adopted and ratified under this division is 33481  
amended or repealed, and the amendment or repeal of the resolution 33482  
is ratified, in accordance with this division, to amend or abolish 33483  
the fees, the schedule of fees is amended or abolished in an 33484  
amended plan of the district approved under section 3734.521 or 33485  
division (A) or (D) of section 3734.56 of the Revised Code, or the 33486  
schedule of fees is amended or abolished through an amendment to 33487  
the district's plan under division (E) of section 3734.56 of the 33488  
Revised Code; the notification of the amendment or abolishment of 33489  
the fees has been given in accordance with this division; and 33490  
collection of the amended fees so established commences, or 33491  
collection of the fees ceases, in accordance with this division. 33492

Prior to the approval of the solid waste management plan of 33493  
the district under section 3734.55 of the Revised Code, the solid 33494  
waste management policy committee of a district may levy fees 33495  
under this division by adopting a resolution establishing the 33496  
proposed amount of the fees. Upon adopting the resolution, the 33497  
committee shall deliver a copy of the resolution to the board of 33498  
county commissioners of each county forming the district and to 33499  
the legislative authority of each municipal corporation and 33500  
township under the jurisdiction of the district and shall prepare 33501  
and publish the resolution and a notice of the time and location 33502  
where a public hearing on the fees will be held. Upon adopting the 33503  
resolution, the committee shall deliver written notice of the 33504

adoption of the resolution; of the amount of the proposed fees; 33505  
and of the date, time, and location of the public hearing to the 33506  
director and to the fifty industrial, commercial, or institutional 33507  
generators of solid wastes within the district that generate the 33508  
largest quantities of solid wastes, as determined by the 33509  
committee, and to their local trade associations. The committee 33510  
shall make good faith efforts to identify those generators within 33511  
the district and their local trade associations, but the 33512  
nonprovision of notice under this division to a particular 33513  
generator or local trade association does not invalidate the 33514  
proceedings under this division. The publication shall occur at 33515  
least thirty days before the hearing. After the hearing, the 33516  
committee may make such revisions to the proposed fees as it 33517  
considers appropriate and thereafter, by resolution, shall adopt 33518  
the revised fee schedule. Upon adopting the revised fee schedule, 33519  
the committee shall deliver a copy of the resolution doing so to 33520  
the board of county commissioners of each county forming the 33521  
district and to the legislative authority of each municipal 33522  
corporation and township under the jurisdiction of the district. 33523  
Within sixty days after the delivery of a copy of the resolution 33524  
adopting the proposed revised fees by the policy committee, each 33525  
such board and legislative authority, by ordinance or resolution, 33526  
shall approve or disapprove the revised fees and deliver a copy of 33527  
the ordinance or resolution to the committee. If any such board or 33528  
legislative authority fails to adopt and deliver to the policy 33529  
committee an ordinance or resolution approving or disapproving the 33530  
revised fees within sixty days after the policy committee 33531  
delivered its resolution adopting the proposed revised fees, it 33532  
shall be conclusively presumed that the board or legislative 33533  
authority has approved the proposed revised fees. 33534

In the case of a county district or a joint district formed 33535  
by two or three counties, the committee shall declare the proposed 33536  
revised fees to be ratified as the fee schedule of the district 33537



upon determining that the board of county commissioners of each 33538  
county forming the district has approved the proposed revised fees 33539  
and that the legislative authorities of a combination of municipal 33540  
corporations and townships with a combined population within the 33541  
district comprising at least sixty per cent of the total 33542  
population of the district have approved the proposed revised 33543  
fees, provided that in the case of a county district, that 33544  
combination shall include the municipal corporation having the 33545  
largest population within the boundaries of the district, and 33546  
provided further that in the case of a joint district formed by 33547  
two or three counties, that combination shall include for each 33548  
county forming the joint district the municipal corporation having 33549  
the largest population within the boundaries of both the county in 33550  
which the municipal corporation is located and the joint district. 33551  
In the case of a joint district formed by four or more counties, 33552  
the committee shall declare the proposed revised fees to be 33553  
ratified as the fee schedule of the joint district upon 33554  
determining that the boards of county commissioners of a majority 33555  
of the counties forming the district have approved the proposed 33556  
revised fees; that, in each of a majority of the counties forming 33557  
the joint district, the proposed revised fees have been approved 33558  
by the municipal corporation having the largest population within 33559  
the county and the joint district; and that the legislative 33560  
authorities of a combination of municipal corporations and 33561  
townships with a combined population within the joint district 33562  
comprising at least sixty per cent of the total population of the 33563  
joint district have approved the proposed revised fees. 33564

For the purposes of this division, only the population of the 33565  
unincorporated area of a township shall be considered. For the 33566  
purpose of determining the largest municipal corporation within 33567  
each county under this division, a municipal corporation that is 33568  
located in more than one solid waste management district, but that 33569  
is under the jurisdiction of one county or joint solid waste 33570

management district in accordance with division (A) of section 33571  
3734.52 of the Revised Code shall be considered to be within the 33572  
boundaries of the county in which a majority of the population of 33573  
the municipal corporation resides. 33574

The committee may amend the schedule of fees levied pursuant 33575  
to a resolution or amended resolution adopted and ratified under 33576  
this division by adopting a resolution establishing the proposed 33577  
amount of the amended fees. The committee may abolish the fees 33578  
levied pursuant to such a resolution or amended resolution by 33579  
adopting a resolution proposing to repeal them. Upon adopting such 33580  
a resolution, the committee shall proceed to obtain ratification 33581  
of the resolution in accordance with this division. 33582

Not later than fourteen days after declaring the fees or 33583  
amended fees to be ratified under this division, the committee 33584  
shall notify by certified mail the owner or operator of each solid 33585  
waste disposal facility that is required to collect the fees of 33586  
the ratification and the amount of the fees. Collection of any 33587  
fees or amended fees ratified on or after March 24, 1992, shall 33588  
commence on the first day of the second month following the month 33589  
in which notification is sent to the owner or operator. 33590

Not later than fourteen days after declaring the repeal of 33591  
the district's schedule of fees to be ratified under this 33592  
division, the committee shall notify by certified mail the owner 33593  
or operator of each facility that is collecting the fees of the 33594  
repeal. Collection of the fees shall cease on the first day of the 33595  
second month following the month in which notification is sent to 33596  
the owner or operator. 33597

Not later than fourteen days after the director issues an 33598  
order approving a district's solid waste management plan under 33599  
section 3734.55 of the Revised Code or amended plan under division 33600  
(A) or (D) of section 3734.56 of the Revised Code that establishes 33601  
or amends a schedule of fees levied by the district, or the 33602

ratification of an amendment to the district's approved plan or 33603  
amended plan under division (E) of section 3734.56 of the Revised 33604  
Code that establishes or amends a schedule of fees, as 33605  
appropriate, the committee shall notify by certified mail the 33606  
owner or operator of each solid waste disposal facility that is 33607  
required to collect the fees of the approval of the plan or 33608  
amended plan, or the amendment to the plan, as appropriate, and 33609  
the amount of the fees or amended fees. In the case of an initial 33610  
or amended plan approved under section 3734.521 of the Revised 33611  
Code in connection with a change in district composition, other 33612  
than one involving the withdrawal of a county from a joint 33613  
district, that establishes or amends a schedule of fees levied 33614  
under divisions (B)(1) to (3) of this section by a district 33615  
resulting from the change, the committee, within fourteen days 33616  
after the change takes effect pursuant to division (G) of that 33617  
section, shall notify by certified mail the owner or operator of 33618  
each solid waste disposal facility that is required to collect the 33619  
fees that the change has taken effect and of the amount of the 33620  
fees or amended fees. Collection of any fees set forth in a plan 33621  
or amended plan approved by the director on or after April 16, 33622  
1993, or an amendment of a plan or amended plan under division (E) 33623  
of section 3734.56 of the Revised Code that is ratified on or 33624  
after April 16, 1993, shall commence on the first day of the 33625  
second month following the month in which notification is sent to 33626  
the owner or operator. 33627

Not later than fourteen days after the director issues an 33628  
order approving a district's plan under section 3734.55 of the 33629  
Revised Code or amended plan under division (A) or (D) of section 33630  
3734.56 of the Revised Code that abolishes the schedule of fees 33631  
levied under divisions (B)(1) to (3) of this section, or an 33632  
amendment to the district's approved plan or amended plan 33633  
abolishing the schedule of fees is ratified pursuant to division 33634  
(E) of section 3734.56 of the Revised Code, as appropriate, the 33635

committee shall notify by certified mail the owner or operator of 33636  
each facility that is collecting the fees of the approval of the 33637  
plan or amended plan, or the amendment of the plan or amended 33638  
plan, as appropriate, and the abolishment of the fees. In the case 33639  
of an initial or amended plan approved under section 3734.521 of 33640  
the Revised Code in connection with a change in district 33641  
composition, other than one involving the withdrawal of a county 33642  
from a joint district, that abolishes the schedule of fees levied 33643  
under divisions (B)(1) to (3) of this section by a district 33644  
resulting from the change, the committee, within fourteen days 33645  
after the change takes effect pursuant to division (G) of that 33646  
section, shall notify by certified mail the owner or operator of 33647  
each solid waste disposal facility that is required to collect the 33648  
fees that the change has taken effect and of the abolishment of 33649  
the fees. Collection of the fees shall cease on the first day of 33650  
the second month following the month in which notification is sent 33651  
to the owner or operator. 33652

Except as otherwise provided in this division, if the 33653  
schedule of fees that a district is levying under divisions (B)(1) 33654  
to (3) of this section pursuant to a resolution or amended 33655  
resolution adopted and ratified under this division, the solid 33656  
waste management plan of the district approved under section 33657  
3734.55 of the Revised Code, an amended plan approved under 33658  
division (A) or (D) of section 3734.56 of the Revised Code, or an 33659  
amendment to the district's approved plan or amended plan under 33660  
division (E) of section 3734.56 of the Revised Code, is amended by 33661  
the adoption and ratification of an amendment to the resolution or 33662  
amended resolution or an amendment of the district's approved plan 33663  
or amended plan, the fees in effect immediately prior to the 33664  
approval of the plan or the amendment of the resolution, amended 33665  
resolution, plan, or amended plan, as appropriate, shall continue 33666  
to be collected until collection of the amended fees commences 33667  
pursuant to this division. 33668

If, in the case of a change in district composition involving 33669  
the withdrawal of a county from a joint district, the director 33670  
completes the actions required under division (G)(1) or (3) of 33671  
section 3734.521 of the Revised Code, as appropriate, forty-five 33672  
days or more before the beginning of a calendar year, the policy 33673  
committee of each of the districts resulting from the change that 33674  
obtained the director's approval of an initial or amended plan in 33675  
connection with the change, within fourteen days after the 33676  
director's completion of the required actions, shall notify by 33677  
certified mail the owner or operator of each solid waste disposal 33678  
facility that is required to collect the district's fees that the 33679  
change is to take effect on the first day of January immediately 33680  
following the issuance of the notice and of the amount of the fees 33681  
or amended fees levied under divisions (B)(1) to (3) of this 33682  
section pursuant to the district's initial or amended plan as so 33683  
approved or, if appropriate, the abolishment of the district's 33684  
fees by that initial or amended plan. Collection of any fees set 33685  
forth in such a plan or amended plan shall commence on the first 33686  
day of January immediately following the issuance of the notice. 33687  
If such an initial or amended plan abolishes a schedule of fees, 33688  
collection of the fees shall cease on that first day of January. 33689

If, in the case of a change in district composition involving 33690  
the withdrawal of a county from a joint district, the director 33691  
completes the actions required under division (G)(1) or (3) of 33692  
section 3734.521 of the Revised Code, as appropriate, less than 33693  
forty-five days before the beginning of a calendar year, the 33694  
director, on behalf of each of the districts resulting from the 33695  
change that obtained the director's approval of an initial or 33696  
amended plan in connection with the change proceedings, shall 33697  
notify by certified mail the owner or operator of each solid waste 33698  
disposal facility that is required to collect the district's fees 33699  
that the change is to take effect on the first day of January 33700

immediately following the mailing of the notice and of the amount 33701  
of the fees or amended fees levied under divisions (B)(1) to (3) 33702  
of this section pursuant to the district's initial or amended plan 33703  
as so approved or, if appropriate, the abolishment of the 33704  
district's fees by that initial or amended plan. Collection of any 33705  
fees set forth in such a plan or amended plan shall commence on 33706  
the first day of the second month following the month in which 33707  
notification is sent to the owner or operator. If such an initial 33708  
or amended plan abolishes a schedule of fees, collection of the 33709  
fees shall cease on the first day of the second month following 33710  
the month in which notification is sent to the owner or operator. 33711

In the case of a change in district composition, the schedule 33712  
of fees that the former districts that existed prior to the change 33713  
were levying under divisions (B)(1) to (3) of this section 33714  
pursuant to a resolution or amended resolution adopted and 33715  
ratified under this division, the solid waste management plan of a 33716  
former district approved under section 3734.521 or 3734.55 of the 33717  
Revised Code, an amended plan approved under section 3734.521 or 33718  
division (A) or (D) of section 3734.56 of the Revised Code, or an 33719  
amendment to a former district's approved plan or amended plan 33720  
under division (E) of section 3734.56 of the Revised Code, and 33721  
that were in effect on the date that the director completed the 33722  
actions required under division (G)(1) or (3) of section 3734.521 33723  
of the Revised Code shall continue to be collected until the 33724  
collection of the fees or amended fees of the districts resulting 33725  
from the change is required to commence, or if an initial or 33726  
amended plan of a resulting district abolishes a schedule of fees, 33727  
collection of the fees is required to cease, under this division. 33728  
Moneys so received from the collection of the fees of the former 33729  
districts shall be divided among the resulting districts in 33730  
accordance with division (B) of section 343.012 of the Revised 33731  
Code and the agreements entered into under division (B) of section 33732  
343.01 of the Revised Code to establish the former and resulting 33733

districts and any amendments to those agreements. 33734

For the purposes of the provisions of division (B) of this 33735  
section establishing the times when newly established or amended 33736  
fees levied by a district are required to commence and the 33737  
collection of fees that have been amended or abolished is required 33738  
to cease, "fees" or "schedule of fees" includes, in addition to 33739  
fees levied under divisions (B)(1) to (3) of this section, those 33740  
levied under section 3734.573 or 3734.574 of the Revised Code. 33741

(C) For the purposes of defraying the added costs to a 33742  
municipal corporation or township of maintaining roads and other 33743  
public facilities and of providing emergency and other public 33744  
services, and compensating a municipal corporation or township for 33745  
reductions in real property tax revenues due to reductions in real 33746  
property valuations resulting from the location and operation of a 33747  
solid waste disposal facility within the municipal corporation or 33748  
township, a municipal corporation or township in which such a 33749  
solid waste disposal facility is located may levy a fee of not 33750  
more than twenty-five cents per ton on the disposal of solid 33751  
wastes at a solid waste disposal facility located within the 33752  
boundaries of the municipal corporation or township regardless of 33753  
where the wastes were generated. 33754

The legislative authority of a municipal corporation or 33755  
township may levy fees under this division by enacting an 33756  
ordinance or adopting a resolution establishing the amount of the 33757  
fees. Upon so doing the legislative authority shall mail a 33758  
certified copy of the ordinance or resolution to the board of 33759  
county commissioners or directors of the county or joint solid 33760  
waste management district in which the municipal corporation or 33761  
township is located or, if a regional solid waste management 33762  
authority has been formed under section 343.011 of the Revised 33763  
Code, to the board of trustees of that regional authority, the 33764  
owner or operator of each solid waste disposal facility in the 33765

municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or



joint district that are covered by an agreement for the joint use 33797  
of solid waste facilities entered into under section 343.02 of the 33798  
Revised Code by the board of county commissioners or board of 33799  
directors of the county or joint district where the wastes are 33800  
generated and disposed of. 33801

(3) When solid wastes, other than solid wastes that consist 33802  
of scrap tires, are burned in a disposal facility that is an 33803  
incinerator or energy recovery facility, the fees levied under 33804  
divisions (A), (B), and (C) of this section shall be levied upon 33805  
the disposal of the fly ash and bottom ash remaining after burning 33806  
of the solid wastes and shall be collected by the owner or 33807  
operator of the sanitary landfill where the ash is disposed of. 33808

(4) When solid wastes are delivered to a solid waste transfer 33809  
facility, the fees levied under divisions (A), (B), and (C) of 33810  
this section shall be levied upon the disposal of solid wastes 33811  
transported off the premises of the transfer facility for disposal 33812  
and shall be collected by the owner or operator of the solid waste 33813  
disposal facility where the wastes are disposed of. 33814

(5) The fees levied under divisions (A), (B), and (C) of this 33815  
section do not apply to sewage sludge that is generated by a waste 33816  
water treatment facility holding a national pollutant discharge 33817  
elimination system permit and that is disposed of through 33818  
incineration, land application, or composting or at another 33819  
resource recovery or disposal facility that is not a landfill. 33820

(6) The fees levied under divisions (A), (B), and (C) of this 33821  
section do not apply to solid wastes delivered to a solid waste 33822  
composting facility for processing. When any unprocessed solid 33823  
waste or compost product is transported off the premises of a 33824  
composting facility and disposed of at a landfill, the fees levied 33825  
under divisions (A), (B), and (C) of this section shall be 33826  
collected by the owner or operator of the landfill where the 33827  
unprocessed waste or compost product is disposed of. 33828

(7) When solid wastes that consist of scrap tires are 33829  
processed at a scrap tire recovery facility, the fees levied under 33830  
divisions (A), (B), and (C) of this section shall be levied upon 33831  
the disposal of the fly ash and bottom ash or other solid wastes 33832  
remaining after the processing of the scrap tires and shall be 33833  
collected by the owner or operator of the solid waste disposal 33834  
facility where the ash or other solid wastes are disposed of. 33835

(E) The fees levied under divisions (B) and (C) of this 33836  
section shall be collected by the owner or operator of the solid 33837  
waste disposal facility where the wastes are disposed of as a 33838  
trustee for the county or joint district and municipal corporation 33839  
or township where the wastes are disposed of. Moneys from the fees 33840  
levied under division (B) of this section shall be forwarded to 33841  
the board of county commissioners or board of directors of the 33842  
district in accordance with rules adopted under division (H) of 33843  
this section. Moneys from the fees levied under division (C) of 33844  
this section shall be forwarded to the treasurer or such other 33845  
officer of the municipal corporation as, by virtue of the charter, 33846  
has the duties of the treasurer or to the clerk of the township, 33847  
as appropriate, in accordance with those rules. 33848

(F) Moneys received by the treasurer or such other officer of 33849  
the municipal corporation under division (E) of this section shall 33850  
be paid into the general fund of the municipal corporation. Moneys 33851  
received by the clerk of the township under that division shall be 33852  
paid into the general fund of the township. The treasurer or such 33853  
other officer of the municipal corporation or the clerk, as 33854  
appropriate, shall maintain separate records of the moneys 33855  
received from the fees levied under division (C) of this section. 33856

(G) Moneys received by the board of county commissioners or 33857  
board of directors under division (E) of this section or section 33858  
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 33859  
shall be paid to the county treasurer, or other official acting in 33860

a similar capacity under a county charter, in a county district or 33861  
to the county treasurer or other official designated by the board 33862  
of directors in a joint district and kept in a separate and 33863  
distinct fund to the credit of the district. If a regional solid 33864  
waste management authority has been formed under section 343.011 33865  
of the Revised Code, moneys received by the board of trustees of 33866  
that regional authority under division (E) of this section shall 33867  
be kept by the board in a separate and distinct fund to the credit 33868  
of the district. Moneys in the special fund of the county or joint 33869  
district arising from the fees levied under division (B) of this 33870  
section and the fee levied under division (A) of section 3734.573 33871  
of the Revised Code shall be expended by the board of county 33872  
commissioners or directors of the district in accordance with the 33873  
district's solid waste management plan or amended plan approved 33874  
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 33875  
exclusively for the following purposes: 33876

(1) Preparation of the solid waste management plan of the 33877  
district under section 3734.54 of the Revised Code, monitoring 33878  
implementation of the plan, and conducting the periodic review and 33879  
amendment of the plan required by section 3734.56 of the Revised 33880  
Code by the solid waste management policy committee; 33881

(2) Implementation of the approved solid waste management 33882  
plan or amended plan of the district, including, without 33883  
limitation, the development and implementation of solid waste 33884  
recycling or reduction programs; 33885

(3) Providing financial assistance to boards of health within 33886  
the district, if solid waste facilities are located within the 33887  
district, for enforcement of this chapter and rules, orders, and 33888  
terms and conditions of permits, licenses, and variances adopted 33889  
or issued under it, other than the hazardous waste provisions of 33890  
this chapter and rules adopted and orders and terms and conditions 33891  
of permits issued under those provisions; 33892

(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;	33893 33894 33895 33896 33897 33898
(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;	33899 33900 33901 33902 33903 33904
(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;	33905 33906 33907 33908
(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;	33909 33910 33911 33912 33913
(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;	33914 33915 33916 33917 33918 33919 33920 33921 33922
(9) Providing financial assistance to individual municipal	33923

corporations and townships within the district to defray their 33924  
added costs of maintaining roads and other public facilities and 33925  
of providing emergency and other public services resulting from 33926  
the location and operation within their boundaries of a 33927  
composting, energy or resource recovery, incineration, or 33928  
recycling facility that either is owned by the district or is 33929  
furnishing solid waste management facility or recycling services 33930  
to the district pursuant to a contract or agreement with the board 33931  
of county commissioners or directors of the district; 33932

(10) Payment of any expenses that are agreed to, awarded, or 33933  
ordered to be paid under section 3734.35 of the Revised Code and 33934  
of any administrative costs incurred pursuant to that section. In 33935  
the case of a joint solid waste management district, if the board 33936  
of county commissioners of one of the counties in the district is 33937  
negotiating on behalf of affected communities, as defined in that 33938  
section, in that county, the board shall obtain the approval of 33939  
the board of directors of the district in order to expend moneys 33940  
for administrative costs incurred. 33941

Prior to the approval of the district's solid waste 33942  
management plan under section 3734.55 of the Revised Code, moneys 33943  
in the special fund of the district arising from the fees shall be 33944  
expended for those purposes in the manner prescribed by the solid 33945  
waste management policy committee by resolution. 33946

Notwithstanding division (G)(6) of this section as it existed 33947  
prior to October 29, 1993, or any provision in a district's solid 33948  
waste management plan prepared in accordance with division 33949  
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 33950  
prior to that date, any moneys arising from the fees levied under 33951  
division (B)(3) of this section prior to January 1, 1994, may be 33952  
expended for any of the purposes authorized in divisions (G)(1) to 33953  
(10) of this section. 33954

(H) The director shall adopt rules in accordance with Chapter 33955

119. of the Revised Code prescribing procedures for collecting and 33956  
forwarding the fees levied under divisions (B) and (C) of this 33957  
section to the boards of county commissioners or directors of 33958  
county or joint solid waste management districts and to the 33959  
treasurers or other officers of municipal corporations or to the 33960  
clerks of townships. The rules also shall prescribe the dates for 33961  
forwarding the fees to the boards and officials and may prescribe 33962  
any other requirements the director considers necessary or 33963  
appropriate to implement and administer divisions (A), (B), and 33964  
(C) of this section. Collection of the fees levied under division 33965  
(A)(1) of this section shall commence on July 1, 1993. Collection 33966  
of the fees levied under division (A)(2) of this section shall 33967  
commence on January 1, 1994. 33968

**Sec. 3735.27.** (A) Whenever the director of development has 33969  
determined that there is need for a housing authority in any 33970  
portion of any county that comprises two or more political 33971  
subdivisions or portions ~~thereof~~ of two or more political 33972  
subdivisions but is less than all the territory within the county, 33973  
a metropolitan housing authority shall be declared to exist, and 33974  
the territorial limits ~~thereof~~ of the authority shall be defined, 33975  
by a letter from the director. The director shall issue a 33976  
determination from the department of development declaring that 33977  
there is need for a housing authority within ~~such~~ those 33978  
territorial limits after finding either of the following: 33979

(1) Unsanitary or unsafe inhabited housing accommodations 33980  
exist in ~~such~~ that area; 33981

(2) There is a shortage of safe and sanitary housing 33982  
accommodations in ~~such~~ that area available to persons who lack the 33983  
amount of income ~~which~~ that is necessary, as determined by the 33984  
director, to enable them, without financial assistance, to live in 33985  
decent, safe, and sanitary dwellings without congestion. 33986

In determining whether dwelling accommodations are unsafe or 33987  
unsanitary, the director may take into consideration the degree of 33988  
congestion, the percentage of land coverage, the light, air, 33989  
space, and access available to the inhabitants of ~~such the~~ 33990  
dwelling accommodations, the size and arrangement of ~~the~~ rooms, 33991  
the sanitary facilities, and the extent to which conditions exist 33992  
in ~~such buildings which~~ the dwelling accommodations that endanger 33993  
life or property by fire or other causes. 33994

The territorial limits of a metropolitan housing authority, 33995  
as defined by the director, under this division shall be fixed for 33996  
~~such the~~ authority upon proof of a letter from the director 33997  
declaring the need for ~~such the~~ authority to function in those 33998  
territorial limits. Any such letter from the director, any 33999  
certificate of determination issued by the director, and any 34000  
certificate of appointment of members of the authority shall be 34001  
admissible in evidence in any suit, action, or proceeding. 34002

A certified copy of the letter from the director, declaring 34003  
the existence of a metropolitan housing authority and ~~boundaries~~ 34004  
the territorial limits of a housing authority its district, shall 34005  
be immediately forwarded to each appointing authority. A 34006  
metropolitan housing authority shall consist of ~~five~~ members, who 34007  
~~shall be~~ are residents of the territory ~~embraced in such~~ 34008  
~~metropolitan housing authority district~~ which they serve. 34009

(B) Except as otherwise provided in division (C), ~~(D), or (E)~~ 34010  
of this section, one member shall be appointed by the probate 34011  
court, one member by the court of common pleas, one member by the 34012  
board of county commissioners, and two members by the chief 34013  
executive officer of the most populous city in the ~~territory~~ 34014  
~~included in the~~ district, in accordance with the last preceding 34015  
federal census. At the time of the initial appointment of the 34016  
authority, the member appointed by the probate court shall be 34017  
appointed for a period of four years, the ~~appointee of~~ member 34018

appointed by the court of common pleas shall be appointed for 34019  
three years, the ~~appointee of member appointed by~~ the board of 34020  
county commissioners shall be appointed for two years, one 34021  
~~appointee of the member appointed by the~~ chief executive officer 34022  
of the most populous city in the district shall be appointed for 34023  
one year, and ~~one appointee of the other member appointed by the~~ 34024  
chief executive officer of the most populous city in the district 34025  
shall be appointed for five years. Thereafter, all members of the 34026  
authority shall be appointed for five-year terms, and vacancies 34027  
due to expired terms shall be filled ~~by the same appointing powers~~ 34028  
in the manner provided in the original appointments. 34029

(C) For any metropolitan housing authority district that 34030  
contained, as of the 1990 federal census, a population of at least 34031  
one million, two members of the authority shall be appointed by 34032  
the ~~municipal~~ legislative authority of the most populous city in 34033  
the ~~territory included in the~~ district, two members shall be 34034  
appointed by the chief executive officer of the most populous city 34035  
in the ~~territory included in the~~ district, and one member shall be 34036  
appointed by the chief executive officer, with the approval of the 34037  
~~municipal~~ legislative authority, of the city in the district ~~which~~ 34038  
that has the second highest number of housing units owned or 34039  
managed by the authority. 34040

At the time of the initial appointment of the authority, one 34041  
member appointed by the ~~municipal~~ legislative authority of the 34042  
most populous city in the ~~territory included in the~~ district shall 34043  
be appointed for three years, and one such member shall be 34044  
appointed for one year; the ~~appointee of member appointed by the~~ 34045  
chief executive officer of the city with the second highest number 34046  
of housing units owned or managed by the authority shall be 34047  
appointed, with the approval of the ~~municipal~~ legislative 34048  
authority, for three years; and one appointee of member appointed 34049  
by the chief executive officer of the most populous city in the 34050



district shall be appointed for three years, and one such member 34051  
shall be appointed for one year. Thereafter, all members of the 34052  
authority shall be appointed for three-year terms, and any vacancy 34053  
shall be filled by the same appointing power that made the initial 34054  
appointment. At the expiration of the term of any member appointed 34055  
by the chief executive officer of the most populous city in the 34056  
~~territory included in the~~ district prior to March 15, 1983, the 34057  
chief executive officer of the most populous city in the district 34058  
shall fill the vacancy by appointment for a three-year term. At 34059  
the expiration of the term of any member appointed by the board of 34060  
county commissioners prior to March 15, 1983, the chief executive 34061  
officer of the city in the district with the second highest number 34062  
of housing units owned or managed by the authority shall, with the 34063  
approval of the municipal legislative authority, fill the vacancy 34064  
by appointment for a three-year term. At the expiration of the 34065  
term of any member appointed prior to March 15, 1983, by the court 34066  
of common pleas or the probate court, the legislative authority of 34067  
the most populous city in the ~~territory included in the~~ district 34068  
shall fill the vacancy by appointment for a three-year term. 34069

After March 15, 1983, at least one of the members appointed 34070  
by the chief executive officer of the most populous city shall be 34071  
a resident of a dwelling unit owned or managed by the ~~housing~~ 34072  
authority. At least one of the initial appointments by the chief 34073  
executive officer of the most populous city, after March 15, 1983, 34074  
shall be a resident of a dwelling unit owned or managed by the 34075  
~~housing~~ authority. Thereafter, any member appointed by the chief 34076  
executive officer of the most populous city for the term 34077  
established by this initial appointment, or for any succeeding 34078  
term ~~thereof~~, shall be a person who resides in a dwelling unit 34079  
owned or managed by the ~~housing~~ authority. If there is an elected, 34080  
representative body of all residents of the ~~housing~~ authority, 34081  
~~then~~ the chief executive officer of the most populous city shall, 34082  
whenever there is a vacancy in this resident term, provide written 34083

notice of the vacancy to the representative body. If the 34084  
representative body submits to the chief executive officer of the 34085  
most populous city, in writing and within sixty days after the 34086  
date on which it was notified of the vacancy, the names of at 34087  
least five residents of the ~~housing~~ authority who are willing and 34088  
qualified to serve as a member, ~~then~~ the chief executive officer 34089  
of the most populous city shall appoint to the resident term one 34090  
of the residents recommended by the representative body. At no 34091  
time shall residents constitute a majority of the members of the 34092  
authority. 34093

(D)(1) For any metropolitan housing authority district 34094  
located in a county that had, as of the 2000 federal census, a 34095  
population of at least four hundred thousand and no city with a 34096  
population greater than thirty per cent of the total population of 34097  
the county, one member of the authority shall be appointed by the 34098  
probate court, one member shall be appointed by the court of 34099  
common pleas, one member shall be appointed by the chief executive 34100  
officer of the most populous city in the district, and two members 34101  
shall be appointed by the board of county commissioners. 34102

(2) At the time of the initial appointment of a metropolitan 34103  
housing authority pursuant to this division, the member appointed 34104  
by the probate court shall be appointed for a period of four 34105  
years, the member appointed by the court of common pleas shall be 34106  
appointed for three years, the member appointed by the chief 34107  
executive officer of the most populous city shall be appointed for 34108  
two years, one member appointed by the board of county 34109  
commissioners shall be appointed for one year, and the other 34110  
member appointed by the board of county commissioners shall be 34111  
appointed for five years. Thereafter, all members of the authority 34112  
shall be appointed for five-year terms, with each term ending on 34113  
the same day of the same month as the term that it succeeds. 34114  
Vacancies shall be filled in the manner provided in the original 34115

appointments. Any member appointed to fill a vacancy occurring 34116  
prior to the expiration of the term shall hold office as a member 34117  
for the remainder of that term. 34118

(E)(1) An additional two members who are residents shall be 34119  
appointed to the metropolitan housing authority in any district 34120  
that does not have at least one resident as a member of its 34121  
authority. For the purposes of this section, a "resident" is a 34122  
person who lives in a housing unit owned or operated by the 34123  
housing authority or is a recipient of tenant-based housing 34124  
assistance through the federal section 8 housing program, 24 34125  
C.F.R. Ch VIII. 34126

(2) One resident member shall reside within a municipal 34127  
corporation and one resident member shall reside in an area not 34128  
within a municipal corporation. Both resident members may reside 34129  
within a municipal corporation in any district in which no 34130  
resident resides in an area not within a municipal corporation or 34131  
in which no resident not within a municipal corporation is willing 34132  
or able to be a member of the authority. 34133

(3) The chief executive officer of the most populous city in 34134  
the district shall appoint the resident member residing within a 34135  
municipal corporation for an initial term of five years. The board 34136  
of county commissioners shall appoint the other resident member 34137  
for an initial term of three years. After the initial term, the 34138  
terms of both members shall be five years and vacancies shall be 34139  
filled in the manner provided in the original appointments. Any 34140  
member appointed to fill a vacancy occurring prior to the 34141  
expiration date of the term for which the member's predecessor was 34142  
appointed shall hold office as a member for the remainder of that 34143  
term. 34144

(4) A member appointed as a resident member who no longer 34145  
qualifies as a resident shall be deemed unable to serve and 34146  
another resident member shall be appointed to serve the unexpired 34147

portion of that term. 34148

(F) Public officials, other than the officers having the 34149  
appointing power under this section, shall be eligible to serve as 34150  
members, officers, or employees of ~~the~~ a metropolitan housing 34151  
authority notwithstanding any statute, charter, or law to the 34152  
contrary. Not more than two such public officials shall be members 34153  
of the authority at any one time. 34154

All members of ~~such housing~~ an authority shall serve without 34155  
compensation but shall be entitled to be reimbursed for all 34156  
necessary expenses incurred. ~~After such~~ 34157

After a metropolitan housing authority district has been is 34158  
formed, the director may enlarge the territory within ~~such~~ the 34159  
district to include other political subdivisions, or portions 34160  
~~thereof~~ of other political subdivisions, but the territorial 34161  
limits of ~~which~~ the district shall be less than that of the 34162  
county. 34163

**Sec. 3735.67.** (A) The owner of real property located in a 34164  
community reinvestment area and eligible for exemption from 34165  
taxation under a resolution adopted pursuant to section 3735.66 of 34166  
the Revised Code may file an application for an exemption from 34167  
real property taxation of a percentage of the assessed valuation 34168  
of a new structure or remodeling, completed after the effective 34169  
date of the resolution adopted pursuant to section 3735.66 of the 34170  
Revised Code, with the housing officer designated pursuant to 34171  
section 3735.66 of the Revised Code for the community reinvestment 34172  
area in which the property is located. If any part of the new 34173  
structure or remodeling that would be exempted is of real property 34174  
to be used for commercial or industrial purposes, the legislative 34175  
authority and the owner of the property shall enter into a written 34176  
agreement pursuant to section 3735.671 of the Revised Code prior 34177  
to commencement of construction or remodeling; if such an 34178

agreement is subject to approval by the board of education of the 34179  
school district within the territory of which the property is or 34180  
will be located, the agreement shall not be formally approved by 34181  
the legislative authority until the board of education approves 34182  
the agreement in the manner prescribed by that section. 34183

(B) The housing officer shall verify the construction of the 34184  
new structure or the cost of the remodeling and the facts asserted 34185  
in the application. The housing officer shall determine whether 34186  
the construction or the cost of the remodeling meets the 34187  
requirements for an exemption under this section. In cases 34188  
involving a structure of historical or architectural significance, 34189  
the housing officer shall not determine whether the remodeling 34190  
meets the requirements for a tax exemption unless the 34191  
appropriateness of the remodeling has been certified, in writing, 34192  
by the society, association, agency, or legislative authority that 34193  
has designated the structure or by any organization or person 34194  
authorized, in writing, by such society, association, agency, or 34195  
legislative authority to certify the appropriateness of the 34196  
remodeling. 34197

(C) If the construction or remodeling meets the requirements 34198  
for exemption, the housing officer shall forward the application 34199  
to the county auditor with a certification as to the division of 34200  
this section under which the exemption is granted, and the period 34201  
and percentage of the exemption as determined by the legislative 34202  
authority pursuant to that division. If the construction or 34203  
remodeling is of commercial or industrial property and the 34204  
legislative authority is not required to certify a copy of a 34205  
resolution under section 3735.671 of the Revised Code, the housing 34206  
officer shall comply with the notice requirements prescribed under 34207  
section 5709.83 of the Revised Code, unless the board has adopted 34208  
a resolution under that section waiving its right to receive such 34209  
a notice. 34210

(D) The tax exemption shall first apply in the year the construction or remodeling would first be taxable but for this section. In the case of remodeling that qualifies for exemption, a percentage, not to exceed one hundred per cent, of the amount by which the remodeling increased the assessed value of the structure shall be exempted from real property taxation. In the case of construction of a structure that qualifies for exemption, a percentage, not to exceed one hundred per cent, of the assessed value of the structure shall be exempted from real property taxation. In either case, the percentage shall be the percentage set forth in the agreement if the structure or remodeling is to be used for commercial or industrial purposes, or the percentage set forth in the resolution describing the community reinvestment area if the structure or remodeling is to be used for residential purposes.

The construction of new structures and the remodeling of existing structures are hereby declared to be a public purpose for which exemptions from real property taxation may be granted for the following periods:

(1) For every dwelling containing not more than two family units located within the same community reinvestment area and upon which the cost of remodeling is at least two thousand five hundred dollars, a period to be determined by the legislative authority adopting the resolution describing the community reinvestment area where the dwelling is located, but not exceeding ten years;

(2) For every dwelling containing more than two units and commercial or industrial properties, located within the same community reinvestment area, upon which the cost of remodeling is at least five thousand dollars, a period to be determined by the legislative authority adopting the resolution, but not exceeding twelve years;

(3) For construction of every dwelling, and commercial or industrial structure located within the same community reinvestment area, a period to be determined by the legislative authority adopting the resolution, but not exceeding fifteen years.

(E) Any person, board, or officer authorized by section 5715.19 of the Revised Code to file complaints with the county board of revision may file a complaint with the housing officer challenging the continued exemption of any property granted an exemption under this section. A complaint against exemption shall be filed prior to the thirty-first day of December of the tax year for which taxation of the property is requested. The housing officer shall determine whether the property continues to meet the requirements for exemption and shall certify the housing officer's findings to the complainant. If the housing officer determines that the property does not meet the requirements for exemption, the housing officer shall notify the county auditor, who shall correct the tax list and duplicate accordingly.

**Sec. 3735.671.** (A) If construction or remodeling of commercial or industrial property is to be exempted from taxation pursuant to section 3735.67 of the Revised Code, the legislative authority and the owner of the property, prior to the commencement of construction or remodeling, shall enter into a written agreement, binding on both parties for a period of time that does not end prior to the end of the period of the exemption, that includes all of the information and statements prescribed by this section. Agreements may include terms not prescribed by this section, but such terms shall in no way derogate from the information and statements prescribed by this section.

(1) Except as otherwise provided in division (A)(2) or (3) of this section, an agreement entered into under this section shall

not be approved by the legislative authority unless the board of 34273  
education of the city, local, or exempted village school district 34274  
within the territory of which the property is or will be located 34275  
approves the agreement. For the purpose of obtaining such 34276  
approval, the legislative authority shall certify a copy of the 34277  
agreement to the board of education not later than forty-five days 34278  
prior to approving the agreement, excluding Saturday, Sunday, and 34279  
a legal holiday as defined in section 1.14 of the Revised Code. 34280  
The board of education, by resolution adopted by a majority of the 34281  
board, shall approve or disapprove the agreement and certify a 34282  
copy of the resolution to the legislative authority not later than 34283  
fourteen days prior to the date stipulated by the legislative 34284  
authority as the date upon which approval of the agreement is to 34285  
be formally considered by the legislative authority. The board of 34286  
education may include in the resolution conditions under which the 34287  
board would approve the agreement. The legislative authority may 34288  
approve an agreement at any time after the board of education 34289  
certifies its resolution approving the agreement to the 34290  
legislative authority, or, if the board approves the agreement 34291  
conditionally, at any time after the conditions are agreed to by 34292  
the board and the legislative authority. 34293

(2) Approval of an agreement by the board of education is not 34294  
required under division (A)(1) of this section if, for each tax 34295  
year the real property is exempted from taxation, the sum of the 34296  
following quantities, as estimated at or prior to the time the 34297  
agreement is formally approved by the legislative authority, 34298  
equals or exceeds fifty per cent of the amount of taxes, as 34299  
estimated at or prior to that time, that would have been charged 34300  
and payable that year upon the real property had that property not 34301  
been exempted from taxation: 34302

(a) The amount of taxes charged and payable on any portion of 34303  
the assessed valuation of the new structure or remodeling that 34304



will not be exempted from taxation under the agreement; 34305

(b) The amount of taxes charged and payable on tangible 34306  
personal property located on the premises of the new structure or 34307  
of the structure to be remodeled under the agreement, whether 34308  
payable by the owner of the structure or by a related member, as 34309  
defined in section 5733.042 of the Revised Code without regard to 34310  
division (B) of that section. 34311

(c) The amount of any cash payment by the owner of the new 34312  
structure or structure to be remodeled to the school district, the 34313  
dollar value, as mutually agreed to be the owner and the board of 34314  
education, of any property or services provided by the owner of 34315  
the property to the school district, whether by gift, loan, or 34316  
otherwise, and any payment by the legislative authority to the 34317  
school district pursuant to section 5709.82 of the Revised Code. 34318

The estimates of quantities used for purposes of division 34319  
(A)(2) of this section shall be estimated by the legislative 34320  
authority. The legislative authority shall certify to the board of 34321  
education that the estimates have been made in good faith. 34322  
Departures of the actual quantities from the estimates subsequent 34323  
to approval of the agreement by the board of education do not 34324  
invalidate the agreement. 34325

(3) If a board of education has adopted a resolution waiving 34326  
its right to approve agreements and the resolution remains in 34327  
effect, approval of an agreement by the board is not required 34328  
under this division. If a board of education has adopted a 34329  
resolution allowing a legislative authority to deliver the notice 34330  
required under this division fewer than forty-five business days 34331  
prior to the legislative authority's execution of the agreement, 34332  
the legislative authority shall deliver the notice to the board 34333  
not later than the number of days prior to such execution as 34334  
prescribed by the board in its resolution. If a board of education 34335  
adopts a resolution waiving its right to approve agreements or 34336

shortening the notification period, the board shall certify a copy 34337  
of the resolution to the legislative authority. If the board of 34338  
education rescinds such a resolution, it shall certify notice of 34339  
the rescission to the legislative authority. 34340

(B) Each agreement shall include the following information: 34341

(1) The names of all parties to the agreement; 34342

(2) A description of the remodeling or construction, whether 34343  
or not to be exempted from taxation, including existing or new 34344  
structure size and cost thereof; the value of machinery, 34345  
equipment, furniture, and fixtures, including an itemization of 34346  
the value of machinery, equipment, furniture, and fixtures used at 34347  
another location in this state prior to the agreement and 34348  
relocated or to be relocated from that location to the property, 34349  
and the value of machinery, equipment, furniture, and fixtures at 34350  
the facility prior to the execution of the agreement; the value of 34351  
inventory at the property, including an itemization of the value 34352  
of inventory held at another location in this state prior to the 34353  
agreement and relocated or to be relocated from that location to 34354  
the property, and the value of inventory held at the property 34355  
prior to the execution of the agreement; 34356

(3) The scheduled starting and completion dates of remodeling 34357  
or construction of real property or of investments made in 34358  
machinery, equipment, furniture, fixtures, and inventory; 34359

(4) Estimates of the number of employee positions to be 34360  
created each year of the agreement and of the number of employee 34361  
positions retained by the owner due to the remodeling or 34362  
construction, itemized as to the number of full-time, part-time, 34363  
permanent, and temporary positions; 34364

(5) Estimates of the dollar amount of payroll attributable to 34365  
the positions set forth in division (B)(4) of this section, 34366  
similarly itemized; 34367

(6) The number of employee positions, if any, at the property 34368  
and at any other location in this state at the time the agreement 34369  
is executed, itemized as to the number of full-time, part-time, 34370  
permanent, and temporary positions. 34371

(C) Each agreement shall set forth the following information 34372  
and incorporate the following statements: 34373

(1) A description of real property to be exempted from 34374  
taxation under the agreement, the percentage of the assessed 34375  
valuation of the real property exempted from taxation, and the 34376  
period for which the exemption is granted, accompanied by the 34377  
statement: "The exemption commences the first year for which the 34378  
real property would first be taxable were that property not 34379  
exempted from taxation. No exemption shall commence after 34380  
..... (insert date) nor extend beyond ..... (insert 34381  
date)." ~~The tax commissioner shall adopt rules prescribing the 34382  
form the description of such property shall assume in order to 34383  
ensure that the property to be exempted from taxation under the 34384  
agreement is distinguishable from property that is not to be 34385  
exempted under that agreement.~~ 34386

(2) "..... (insert name of owner) shall pay such real 34387  
property taxes as are not exempted under this agreement and are 34388  
charged against such property and shall file all tax reports and 34389  
returns as required by law. If ..... (insert name of owner) 34390  
fails to pay such taxes or file such returns and reports, 34391  
exemptions from taxation granted under this agreement are 34392  
rescinded beginning with the year for which such taxes are charged 34393  
or such reports or returns are required to be filed and 34394  
thereafter." 34395

(3) "..... (insert name of owner) hereby certifies that 34396  
at the time this agreement is executed, ..... (insert name of 34397  
owner) does not owe any delinquent real or tangible personal 34398

property taxes to any taxing authority of the State of Ohio, and 34399  
does not owe delinquent taxes for which ..... (insert name of 34400  
owner) is liable under Chapter 5733., 5735., 5739., 5741., 5743., 34401  
5747., or 5753. of the Ohio Revised Code, or, if such delinquent 34402  
taxes are owed, ..... (insert name of owner) currently is 34403  
paying the delinquent taxes pursuant to an undertaking enforceable 34404  
by the State of Ohio or an agent or instrumentality thereof, has 34405  
filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or 34406  
such a petition has been filed against ..... (insert name of 34407  
owner). For the purposes of this certification, delinquent taxes 34408  
are taxes that remain unpaid on the latest day prescribed for 34409  
payment without penalty under the chapter of the Revised Code 34410  
governing payment of those taxes." 34411

(4) "..... (insert name of municipal corporation or 34412  
county) shall perform such acts as are reasonably necessary or 34413  
appropriate to effect, claim, reserve, and maintain exemptions 34414  
from taxation granted under this agreement including, without 34415  
limitation, joining in the execution of all documentation and 34416  
providing any necessary certificates required in connection with 34417  
such exemptions." 34418

(5) "If for any reason ..... (insert name of municipal 34419  
corporation or county) revokes the designation of the area, 34420  
entitlements granted under this agreement shall continue for the 34421  
number of years specified under this agreement, unless ..... 34422  
(insert name of owner) materially fails to fulfill its obligations 34423  
under this agreement and ..... (insert name of 34424  
municipal corporation or county) terminates or modifies the 34425  
exemptions from taxation pursuant to this agreement." 34426

(6) "If ..... (insert name of owner) materially fails to 34427  
fulfill its obligations under this agreement, or if ..... 34428  
(insert name of municipal corporation or county) determines that 34429  
the certification as to delinquent taxes required by this 34430

agreement is fraudulent, ..... (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement." 34431  
34432  
34433

(7) "..... (insert name of owner) shall provide to the proper tax incentive review council any information reasonably required by the council to evaluate the applicant's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised Code if requested by the council." 34434  
34435  
34436  
34437  
34438

(8) "This agreement is not transferable or assignable without the express, written approval of ..... (insert name of municipal corporation or county)." 34439  
34440  
34441

(9) "Exemptions from taxation granted under this agreement shall be revoked if it is determined that ..... (insert name of owner), any successor to that person, or any related member (as those terms are defined in division (E) of section 3735.671 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under division (E) of section 3735.671 or section 5709.62 or 5709.63 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections." 34442  
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34449

(10) "..... (insert name of owner) and ..... (insert name of municipal corporation or county) acknowledge that this agreement must be approved by formal action of the legislative authority of ..... (insert name of municipal corporation or county) as a condition for the agreement to take effect. This agreement takes effect upon such approval." 34450  
34451  
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34455

The statement described in division (C)(6) of this section may include the following statement, appended at the end of the statement: ", and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement." 34456  
34457  
34458  
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34460

(D) Except as otherwise provided in this division, an 34461

agreement entered into under this section shall require that the 34462  
owner pay an annual fee equal to the greater of one per cent of 34463  
the amount of taxes exempted under the agreement or five hundred 34464  
dollars; provided, however, that if the value of the incentives 34465  
exceeds two hundred fifty thousand dollars, the fee shall not 34466  
exceed two thousand five hundred dollars. The fee shall be payable 34467  
to the legislative authority once per year for each year the 34468  
agreement is effective on the days and in the form specified in 34469  
the agreement. Fees paid shall be deposited in a special fund 34470  
created for such purpose by the legislative authority and shall be 34471  
used by the legislative authority exclusively for the purpose of 34472  
complying with section 3735.672 of the Revised Code and by the tax 34473  
incentive review council created under section 5709.85 of the 34474  
Revised Code exclusively for the purposes of performing the duties 34475  
prescribed under that section. The legislative authority may waive 34476  
or reduce the amount of the fee, but such waiver or reduction does 34477  
not affect the obligations of the legislative authority or the tax 34478  
incentive review council to comply with section 3735.672 or 34479  
5709.85 of the Revised Code. 34480

(E) If any person that is party to an agreement granting an 34481  
exemption from taxation discontinues operations at the structure 34482  
to which that exemption applies prior to the expiration of the 34483  
term of the agreement, that person, any successor to that person, 34484  
and any related member shall not enter into an agreement under 34485  
this section or section 5709.62, 5709.63, or 5709.632 of the 34486  
Revised Code, and no legislative authority shall enter into such 34487  
an agreement with such a person, successor, or related member, 34488  
prior to the expiration of five years after the discontinuation of 34489  
operations. As used in this division, "successor" means a person 34490  
to which the assets or equity of another person has been 34491  
transferred, which transfer resulted in the full or partial 34492  
nonrecognition of gain or loss, or resulted in a carryover basis, 34493  
both as determined by rule adopted by the tax commissioner. 34494

"Related member" has the same meaning as defined in section 34495  
5733.042 of the Revised Code without regard to division (B) of 34496  
that section. 34497

The director of development shall review all agreements 34498  
submitted to the director under division (F) of this section for 34499  
the purpose of enforcing this division. If the director determines 34500  
there has been a violation of this division, the director shall 34501  
notify the legislative authority of such violation, and the 34502  
legislative authority immediately shall revoke the exemption 34503  
granted under the agreement. 34504

(F) When an agreement is entered into under this section, the 34505  
legislative authority authorizing the agreement shall forward a 34506  
copy of the agreement to the director of development ~~and to the~~ 34507  
~~tax commissioner~~ within fifteen days after the agreement is 34508  
entered into. 34509

**Sec. 3737.81.** (A) There is hereby created the state fire 34510  
commission consisting of ten members to be appointed by the 34511  
governor with the advice and consent of the senate. The fire 34512  
marshal or chief deputy fire marshal, a representative designated 34513  
by the department of public safety who has tenure in fire 34514  
suppression, and a representative designated by the board of 34515  
building standards shall be ex officio members. Of the initial 34516  
appointments made to the commission, two shall be for a term 34517  
ending one year after November 1, 1978, two shall be for a term 34518  
ending two years after that date, two shall be for a term ending 34519  
three years after that date, two shall be for a term ending four 34520  
years after that date, and two shall be for a term ending five 34521  
years after that date. Thereafter, terms of office shall be for 34522  
five years, each term ending on the same day of the same month of 34523  
the year as did the term which it succeeds. Each member shall hold 34524  
office from the date of appointment until the end of the term for 34525

which the member was appointed. Any member appointed to fill a 34526  
vacancy occurring prior to the expiration of the term for which 34527  
the member's predecessor was appointed shall hold office for the 34528  
remainder of that term. Any member shall continue in office 34529  
subsequent to the expiration date of the member's term until a 34530  
successor takes office, or until a period of sixty days has 34531  
elapsed, whichever occurs first. Members shall be qualified by 34532  
experience and training to deal with the matters that are the 34533  
responsibility of the commission. Two members shall be members of 34534  
paid fire services, one shall be a member of volunteer fire 34535  
services, two shall be mayors, managers, or members of legislative 34536  
authorities of municipal corporations, one shall represent 34537  
commerce and industry, one shall be a representative of a fire 34538  
insurance company domiciled in this state, one shall represent the 34539  
flammable liquids industry, one shall represent the construction 34540  
industry, and one shall represent the public. At no time shall 34541  
more than six members be members of or associated with the same 34542  
political party. Membership on the commission shall not constitute 34543  
holding a public office, and no person shall forfeit or otherwise 34544  
vacate the person's office or position of employment because of 34545  
membership on the commission. 34546

(B) The ex officio members may not vote, except that the fire 34547  
marshal or chief deputy fire marshal may vote in case of a tie. 34548

(C) Each member of the commission, other than ex officio 34549  
members, shall be paid an amount ~~equal to that payable under pay~~ 34550  
~~range 32 (S)(D)~~ fixed pursuant to division (J) of section 124.15 34551  
of the Revised Code, and the member's actual and necessary 34552  
expenses. 34553

(D) The commission shall select a chairperson and a 34554  
vice-chairperson from among its members. No business may be 34555  
transacted in the absence of a quorum. A quorum shall be at least 34556  
six members, excluding ex officio members, and shall include 34557



either the chairperson or vice-chairperson. The commission shall 34558  
hold regular meetings at least once every two months and may meet 34559  
at any other time at the call of the chairperson. 34560

(E) The fire marshal shall provide the commission with office 34561  
space, meeting rooms, staff, and clerical assistance necessary for 34562  
the commission to perform its duties. If the commission maintains 34563  
the Ohio fire service hall of fame under division (C) of section 34564  
3737.03 of the Revised Code, the fire marshal shall preserve, in 34565  
an appropriate manner, in the office space or meeting rooms 34566  
provided to the commission under this division or in another 34567  
location, copies of all official commendations awarded to 34568  
individuals recognized and commemorated for their exemplary 34569  
accomplishments and acts of heroism at fire-related incidents or 34570  
similar events that occurred in this state. 34571

(F) If the commission maintains the Ohio fire service hall of 34572  
fame under division (C) of section 3737.03 of the Revised Code, 34573  
the expenses incurred for the recognition and commemoration of 34574  
individuals for their exemplary accomplishments and acts of 34575  
heroism at fire-related incidents or similar events that occurred 34576  
in this state, including, but not limited to, expenses for 34577  
official commendations and an annual awards ceremony as described 34578  
in division (C) of section 3737.03 of the Revised Code, may be 34579  
paid from moneys appropriated by the general assembly for purposes 34580  
of that recognition and commemoration, from moneys that are 34581  
available to the fire marshal under this chapter, or from other 34582  
funding sources available to the commission. 34583

**Sec. 3745.04.** As used in this section, "any person" means any 34584  
individual, any partnership, corporation, association, or other 34585  
legal entity, or any political subdivision, instrumentality, or 34586  
agency of a state, whether or not the individual or legal entity 34587  
is an applicant for or holder of a license, permit, or variance 34588

from the environmental protection agency, and includes any 34589  
department, agency, or instrumentality of the federal government 34590  
that is an applicant for or holder of a license, permit, or 34591  
variance from the environmental protection agency. 34592

As used in this section, "action" or "act" includes the 34593  
adoption, modification, or repeal of a rule or standard, the 34594  
issuance, modification, or revocation of any lawful order other 34595  
than an emergency order, and the issuance, denial, modification, 34596  
or revocation of a license, permit, lease, variance, or 34597  
certificate, or the approval or disapproval of plans and 34598  
specifications pursuant to law or rules adopted thereunder. 34599

Any person who was a party to a proceeding before the 34600  
director of environmental protection may participate in an appeal 34601  
to the environmental review appeals commission for an order 34602  
vacating or modifying the action of the director or a local board 34603  
of health, or ordering the director or board of health to perform 34604  
an act. The environmental review appeals commission has exclusive 34605  
original jurisdiction over any matter that may, under this 34606  
section, be brought before it. 34607

The person so appealing to the commission shall be known as 34608  
appellant, and the director and any party to a proceeding 34609  
substantially supporting the finding from which the appeal is 34610  
taken shall be known as appellee, except that when an appeal 34611  
involves a license to operate a disposal site or facility, the 34612  
local board of health or the director of environmental protection, 34613  
and any party to a proceeding substantially supporting the finding 34614  
from which the appeal is taken, shall, as appropriate, be known as 34615  
the appellee. Appellant and appellee shall be deemed to be parties 34616  
to the appeal. 34617

The appeal shall be in writing and shall set forth the action 34618  
complained of and the grounds upon which the appeal is based. 34619

The appeal shall be filed with the commission within thirty 34620  
days after notice of the action. Notice of the filing of the 34621  
appeal shall be filed with the appellee within three days after 34622  
the appeal is filed with the commission. 34623

The appeal shall be accompanied by a filing fee of ~~sixty~~ 34624  
seventy dollars, which the commission, in its discretion, may 34625  
~~waive in cases of~~ reduce if by affidavit the appellant 34626  
demonstrates that payment of the full amount of the fee would 34627  
cause extreme hardship. 34628

Within seven days after receipt of the notice of appeal, the 34629  
director or local board of health shall prepare and certify to the 34630  
commission a record of the proceedings out of which the appeal 34631  
arises, including all documents and correspondence, and a 34632  
transcript of all testimony. 34633

Upon the filing of the appeal, the commission shall fix the 34634  
time and place at which the hearing on the appeal will be held. 34635  
The commission shall give the appellant and the appellee at least 34636  
ten days' written notice thereof by certified mail. The commission 34637  
shall hold the hearing within thirty days after the notice of 34638  
appeal is filed. The commission may postpone or continue any 34639  
hearing upon its own motion or upon application of the appellant 34640  
or of the appellee. 34641

The filing of an appeal does not automatically suspend or 34642  
stay execution of the action appealed from. Upon application by 34643  
the appellant, the commission may suspend or stay the execution 34644  
pending immediate determination of the appeal without interruption 34645  
by continuances, other than for unavoidable circumstances. 34646

As used in this section and sections 3745.05 and 3745.06 of 34647  
the Revised Code, "director of environmental protection" and 34648  
"director" are deemed to include the director of agriculture and 34649  
"environmental protection agency" is deemed to include the 34650

department of agriculture with respect to actions that are 34651  
 appealable to the commission under Chapter 903. of the Revised 34652  
 Code. 34653

**Sec. 3745.11.** (A) Applicants for and holders of permits, 34654  
 licenses, variances, plan approvals, and certifications issued by 34655  
 the director of environmental protection pursuant to Chapters 34656  
 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 34657  
 to the environmental protection agency for each such issuance and 34658  
 each application for an issuance as provided by this section. No 34659  
 fee shall be charged for any issuance for which no application has 34660  
 been submitted to the director. 34661

(B) ~~Prior to January 1, 1994, each~~ Each person who is issued 34662  
~~a permit to operate, variance, or permit to install~~ prior to July 34663  
~~1, 2003, pursuant to rules adopted~~ under division (F) of section 34664  
 3704.03 of the Revised Code shall pay the fees specified in the 34665  
 following ~~schedule~~ schedules: 34666

(1) Fuel-Burning Equipment ( <u>boilers</u> )				34667
Input capacity ( <u>maximum</u> )	<del>Permit</del>		Permit	34668
(million British	<del>to</del>		to	34669
thermal units per hour)	<del>operate</del>	<del>Variance</del>	install	34670
<u>Greater than 0 or more, but</u>	<del>\$ 75</del>	<del>\$225</del>	<del>\$ 100</del> <u>200</u>	34671
less than 10				34672
10 or more, but less than 100	<del>210</del>	<del>450</del>	<del>390</del> <u>400</u>	34673
100 or more, but less than 300	<del>270</del>	<del>675</del>	<del>585</del> <u>800</u>	34674
300 or more, but less than 500	<del>330</del>	<del>900</del>	<del>780</del>	34675
			<u>1500</u>	
500 or more, <u>but less than 1000</u>	<del>500</del>	<del>975</del>	<del>1000</del>	34676
			<u>2500</u>	
<u>1000 or more, but less than 5000</u>			<u>4000</u>	34677
<u>5000 or more</u>			<u>6000</u>	34678
<u>Units burning exclusively natural gas, number two fuel oil,</u>				34679

or both shall be assessed a fee that is one-half of the applicable amount established in division (F)(1) of this section. 34680  
 34681

~~Any fuel burning equipment using only natural gas, propane, liquefied petroleum gas, or number two or lighter fuel oil shall be assessed a fee one half of that shown.~~ 34682  
 34683  
 34684

(2) Incinerators 34685

	<del>Permit</del>		Permit	
Input capacity	<del>to</del>		to	34687
(pounds per hour)	<del>operate</del>	Variance	install	34688
0 to <del>50</del> <u>100</u>	<del>\$ 50</del>	\$225	\$ <del>65</del> <u>100</u>	34689
<del>51</del> <u>101</u> to 500	<del>210</del>	450	<del>390</del> <u>400</u>	34690
501 to 2000	<del>270</del>	675	<del>585</del> <u>750</u>	34691
2001 to <del>30,000</del> <u>20,000</u>	<del>330</del>	900	<del>780</del>	34692
			<u>1000</u>	
more than <del>30,000</del> <u>20,000</u>	<del>500</del>	975	<del>1000</del>	34693
			<u>2500</u>	

~~(3)(a)~~ Process 34694

	<del>Permit</del>		Permit	
Process weight rate	<del>to</del>		to	34695
(pounds per hour)	<del>operate</del>	Variance	install	34697
0 to 1000	<del>\$100</del>	\$225	\$ 200	34698
1001 to 5000	<del>210</del>	450	<del>390</del> <u>400</u>	34699
5001 to 10,000	<del>270</del>	675	<del>585</del> <u>600</u>	34700
10,001 to 50,000	<del>330</del>	900	<del>780</del> <u>800</u>	34701
more than 50,000	<del>500</del>	975	1000	34702

In any process where process weight rate cannot be 34703  
 ascertained, the minimum fee shall be assessed. 34704

(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a 34705  
 34706  
 34707  
 34708

<u>process used in any of the following industries, as identified by</u>			34709
<u>the applicable four-digit standard industrial classification code</u>			34710
<u>according to the Standard Industrial Classification Manual</u>			34711
<u>published by the United States office of management and budget in</u>			34712
<u>the executive office of the president, 1972, as revised:</u>			34713
<u>1211 Bituminous coal and lignite mining;</u>			34714
<u>1213 Bituminous coal and lignite mining services;</u>			34715
<u>1411 Dimension stone;</u>			34716
<u>1422 Crushed and broken limestone;</u>			34717
<u>1427 Crushed and broken stone, not elsewhere classified;</u>			34718
<u>1442 Construction sand and gravel;</u>			34719
<u>1446 Industrial sand;</u>			34720
<u>3281 Cut stone and stone products;</u>			34721
<u>3295 Minerals and earth, ground or otherwise treated.</u>			34722
<u>(c) The fees established in the following schedule apply to</u>			34723
<u>the issuance of a permit to install pursuant to rules adopted</u>			34724
<u>under division (F) of section 3704.03 of the Revised Code for a</u>			34725
<u>process listed in division (B)(3)(b) of this section:</u>			34726
<u>Process weight rate</u>		<u>Permit to</u>	34727
<u>(pounds per hour)</u>		<u>install</u>	34728
<u>0 to 1000</u>		<u>\$ 200</u>	34729
<u>10,001 to 50,000</u>		<u>300</u>	34730
<u>50,001 to 100,000</u>		<u>400</u>	34731
<u>100,001 to 200,000</u>		<u>500</u>	34732
<u>200,001 to 400,000</u>		<u>600</u>	34733
<u>400,001 or more</u>		<u>700</u>	34734
<u>(4) Storage tanks</u>			34735
<u>Gallons (maximum useful capacity)</u>	<u>Permit</u>	<u>Permit</u>	34736
	<u>to</u>	<u>to</u>	34737
	<u>operate</u>	<u>Variance install</u>	34738

				34739
<del>Less than 40,000</del> <u>0 to 20,000</u>	\$150	\$225	\$ <del>195</del> <u>100</u>	34740
<del>20,001 to 40,000 or more, but less</del>				34741
<del>than 100,000</del>	210	450	<del>390</del> <u>150</u>	34742
<del>100,000 or more, but less</del>				34743
<del>than 400,000</del>	270	675	585	34744
<del>400,000 or more, but less</del>				34745
<del>than</del> <u>40,001 to 100,000</u>			<u>200</u>	34746
<u>100,001 to 250,000</u>			<u>250</u>	34747
<u>250,001 to 500,000</u>			<u>350</u>	34748
<u>500,001 to 1,000,000</u>	330	900	<del>780</del> <u>500</u>	34749
<del>1,000,000</del> <u>1,000,001 or more greater</u>	500	975	<del>1000</del> <u>750</u>	34750
(5) Gasoline				34751
Gasoline/ <u>fuel</u> dispensing	<del>Permit</del>		Permit	34752
facilities	<del>to</del>		to	34753
	<del>operate</del>	Variance	install	34754
For each gasoline/ <u>fuel</u>				34755
dispensing facility	\$20	\$100	\$ <del>50</del> <u>100</u>	34756
(6) <del>Dry cleaning</del>				34757
Dry cleaning	<del>Permit</del>		Permit	34758
facilities	<del>to</del>		to	34759
	<del>operate</del>	Variance	install	34760
For each dry cleaning				34761
facility ( <u>includes all units</u>	\$50	\$200	\$100	34762
<u>at the facility</u> )				34763
(7) <del>Coal mining operations regulated under Chapter 1513. of</del>				34764
<del>the Revised Code shall be assessed a fee of two hundred fifty</del>				34765
<del>dollars per mine or location.</del> <u>Registration status</u>				34766
			<u>Permit</u>	34767
			<u>to</u>	34768
			<u>install</u>	34769
<u>For each source covered by registration status</u>			<u>\$75</u>	34770

(C)(1) Except as otherwise provided in division (C)(2) of 34771  
this section, beginning July 1, 1994, each person who owns or 34772  
operates an air contaminant source and who is required to apply 34773  
for and obtain a Title V permit under section 3704.036 of the 34774  
Revised Code shall pay the fees set forth in division (C)(1) of 34775  
this section. For the purposes of that division, total emissions 34776  
of air contaminants may be calculated using engineering 34777  
calculations, emissions factors, material balance calculations, or 34778  
performance testing procedures, as authorized by the director. 34779

The following fees shall be assessed on the total actual 34780  
emissions from a source in tons per year of the regulated 34781  
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 34782  
organic compounds, and lead: 34783

(a) Fifteen dollars per ton on the total actual emissions of 34784  
each such regulated pollutant during the period July through 34785  
December 1993, to be collected no sooner than July 1, 1994; 34786

(b) Twenty dollars per ton on the total actual emissions of 34787  
each such regulated pollutant during calendar year 1994, to be 34788  
collected no sooner than April 15, 1995; 34789

(c) Twenty-five dollars per ton on the total actual emissions 34790  
of each such regulated pollutant in calendar year 1995, and each 34791  
subsequent calendar year, to be collected no sooner than the 34792  
fifteenth day of April of the year next succeeding the calendar 34793  
year in which the emissions occurred. 34794

The fees levied under division (C)(1) of this section do not 34795  
apply to that portion of the emissions of a regulated pollutant at 34796  
a facility that exceed four thousand tons during a calendar year. 34797

(2) The fees assessed under division (C)(1) of this section 34798  
are for the purpose of providing funding for the Title V permit 34799  
program. 34800



(3) The fees assessed under division (C)(1) of this section 34801  
do not apply to emissions from any electric generating unit 34802  
designated as a Phase I unit under Title IV of the federal Clean 34803  
Air Act prior to calendar year 2000. Those fees shall be assessed 34804  
on the emissions from such a generating unit commencing in 34805  
calendar year 2001 based upon the total actual emissions from the 34806  
generating unit during calendar year 2000 and shall continue to be 34807  
assessed each subsequent calendar year based on the total actual 34808  
emissions from the generating unit during the preceding calendar 34809  
year. 34810

(4) The director shall issue invoices to owners or operators 34811  
of air contaminant sources who are required to pay a fee assessed 34812  
under division (C) or (D) of this section. Any such invoice shall 34813  
be issued no sooner than the applicable date when the fee first 34814  
may be collected in a year under the applicable division, shall 34815  
identify the nature and amount of the fee assessed, and shall 34816  
indicate that the fee is required to be paid within thirty days 34817  
after the issuance of the invoice. 34818

(D)(1) Except as provided in division (D)~~(2)~~(3) of this 34819  
section, ~~beginning~~ from January 1, 1994, through December 31, 34820  
2003, each person who owns or operates an air contaminant source; 34821  
who is required to apply for a permit to operate pursuant to rules 34822  
adopted under division (G), or a variance pursuant to division 34823  
(H), of section 3704.03 of the Revised Code; and who is not 34824  
required to apply for and obtain a Title V permit under section 34825  
3704.036 of the Revised Code shall pay a single fee based upon the 34826  
sum of the actual annual emissions from the facility of the 34827  
regulated pollutants particulate matter, sulfur dioxide, nitrogen 34828  
oxides, organic compounds, and lead in accordance with the 34829  
following schedule: 34830

Total tons per year		34831
of regulated pollutants	Annual fee	34832

emitted	per facility	34833
More than 0, but less than 50	\$ 75	34834
50 or more, but less than 100	300	34835
100 or more	700	34836

(2) Except as provided in division (D)(3) of this section, 34837  
beginning January 1, 2004, each person who owns or operates an air 34838  
contaminant source; who is required to apply for a permit to 34839  
operate pursuant to rules adopted under division (G), or a 34840  
variance pursuant to division (H), of section 3704.03 of the 34841  
Revised Code; and who is not required to apply for and obtain a 34842  
Title V permit under section 3704.03 of the Revised Code shall pay 34843  
a single fee based upon the sum of the actual annual emissions 34844  
from the facility of the regulated pollutants particulate matter, 34845  
sulfur dioxide, nitrogen oxides, organic compounds, and lead in 34846  
accordance with the following schedule: 34847

<u>Total tons per year</u>		34848
<u>of regulated pollutants</u>	<u>Annual fee</u>	34849
<u>emitted</u>	<u>per facility</u>	34850
<u>More than 0, but less than 10</u>	<u>\$ 100</u>	34851
<u>10 or more, but less than 50</u>	<u>200</u>	34852
<u>50 or more, but less than 100</u>	<u>300</u>	34853
<u>100 or more</u>	<u>700</u>	34854

(3)(a) As used in division (D) of this section, "synthetic 34855  
minor facility" means a facility for which one or more permits to 34856  
install or permits to operate have been issued for the air 34857  
contaminant sources at the facility that include terms and 34858  
conditions that lower the facility's potential to emit air 34859  
contaminants below the major source thresholds established in 34860  
rules adopted under section 3704.036 of the Revised Code. 34861

(b) Beginning January 1, 2000, through June 30, ~~2004~~ 2006, 34862  
each person who owns or operates a synthetic minor facility shall 34863  
pay an annual fee based on the sum of the actual annual emissions 34864

from the facility of particulate matter, sulfur dioxide, nitrogen		34865
dioxide, organic compounds, and lead in accordance with the		34866
following schedule:		34867
Combined total tons		34868
per year of all regulated	Annual fee	34869
pollutants emitted	per facility	34870
Less than 10	\$ 170	34871
10 or more, but less than 20	340	34872
20 or more, but less than 30	670	34873
30 or more, but less than 40	1,010	34874
40 or more, but less than 50	1,340	34875
50 or more, but less than 60	1,680	34876
60 or more, but less than 70	2,010	34877
70 or more, but less than 80	2,350	34878
80 or more, but less than 90	2,680	34879
90 or more, but less than 100	3,020	34880
100 or more	3,350	34881
<del>(3)</del> (4) The fees assessed under division (D)(1) of this		34882
section shall be collected annually no sooner than the fifteenth		34883
day of April, commencing in 1995. <u>The fees assessed under division</u>		34884
<u>(D)(2) of this section shall be collected annually no sooner than</u>		34885
<u>the fifteenth day of April, commencing in 2005.</u> The fees assessed		34886
under division (D) <del>(2)</del> (3) of this section shall be collected no		34887
sooner than the fifteenth day of April, commencing in 2000. The		34888
fees assessed under division (D) of this section in a calendar		34889
year shall be based upon the sum of the actual emissions of those		34890
regulated pollutants during the preceding calendar year. For the		34891
purpose of division (D) of this section, emissions of air		34892
contaminants may be calculated using engineering calculations,		34893
emission factors, material balance calculations, or performance		34894
testing procedures, as authorized by the director. The director,		34895
by rule, may require persons who are required to pay the fees		34896
assessed under division (D) of this section to pay those fees		34897

biennially rather than annually. 34898

(E)(1) Consistent with the need to cover the reasonable costs 34899  
of the Title V permit program, the director annually shall 34900  
increase the fees prescribed in division (C)(1) of this section by 34901  
the percentage, if any, by which the consumer price index for the 34902  
most recent calendar year ending before the beginning of a year 34903  
exceeds the consumer price index for calendar year 1989. Upon 34904  
calculating an increase in fees authorized by division (E)(1) of 34905  
this section, the director shall compile revised fee schedules for 34906  
the purposes of division (C)(1) of this section and shall make the 34907  
revised schedules available to persons required to pay the fees 34908  
assessed under that division and to the public. 34909

(2) For the purposes of division (E)(1) of this section: 34910

(a) The consumer price index for any year is the average of 34911  
the consumer price index for all urban consumers published by the 34912  
United States department of labor as of the close of the 34913  
twelve-month period ending on the thirty-first day of August of 34914  
that year. 34915

(b) If the 1989 consumer price index is revised, the director 34916  
shall use the revision of the consumer price index that is most 34917  
consistent with that for calendar year 1989. 34918

(F) Each person who is issued a permit to install pursuant to 34919  
rules adopted under division (F) of section 3704.03 of the Revised 34920  
Code on or after ~~January 1, 1994~~ July 1, 2003, shall pay the fees 34921  
specified in the following schedules: 34922

(1) Fuel-burning equipment (boilers, furnaces, or process 34923  
heaters used in the process of burning fuel for the primary 34924  
purpose of producing heat or power by indirect heat transfer) 34925

Input capacity (maximum) 34926  
(million British thermal units per hour) Permit to install 34927  
Greater than 0, but less than 10 \$ 200 34928

10 or more, but less than 100	400	34929
100 or more, but less than 300	<del>800</del> <u>1000</u>	34930
300 or more, but less than 500	<del>1500</del> <u>2250</u>	34931
500 or more, but less than 1000	<del>2500</del> <u>3750</u>	34932
1000 or more, but less than 5000	<del>4000</del> <u>6000</u>	34933
5000 or more	<del>6000</del> <u>9000</u>	34934

Units burning exclusively natural gas, number two fuel oil, 34935  
or both shall be assessed a fee that is one-half the applicable 34936  
amount shown in division (F)(1) of this section. 34937

(2) Combustion turbines and stationary internal combustion 34938  
engines designed to generate electricity 34939

<u>Generating capacity (mega watts)</u>	<u>Permit to install</u>	34940
<u>0 or more, but less than 10</u>	<u>\$ 25</u>	34941
<u>10 or more, but less than 25</u>	<u>150</u>	34942
<u>25 or more, but less than 50</u>	<u>300</u>	34943
<u>50 or more, but less than 100</u>	<u>500</u>	34944
<u>100 or more, but less than 250</u>	<u>1000</u>	34945
<u>250 or more</u>	<u>2000</u>	34946

(3) Incinerators 34947

Input capacity (pounds per hour)	Permit to install	34948
0 to 100	\$ 100	34949
101 to 500	<del>400</del> <u>500</u>	34950
501 to 2000	<del>750</del> <u>1000</u>	34951
2001 to 20,000	<del>1000</del> <u>1500</u>	34952
more than 20,000	<del>2500</del> <u>3750</u>	34953

~~(3)~~(4)(a) Process 34954

Process weight rate (pounds per hour)	Permit to install	34955
0 to 1000	\$ 200	34956
1001 to 5000	<del>400</del> <u>500</u>	34957
5001 to 10,000	<del>600</del> <u>750</u>	34958
10,001 to 50,000	<del>800</del> <u>1000</u>	34959
more than 50,000	<del>1000</del> <u>1250</u>	34960

In any process where process weight rate cannot be 34961  
ascertained, the minimum fee shall be assessed. A boiler, furnace, 34962  
combustion turbine, stationary internal combustion engine, or 34963  
process heater designed to provide direct heat or power to a 34964  
process not designed to generate electricity shall be assessed a 34965  
fee established in division (F)(4)(a) of this section. A 34966  
combustion turbine or stationary internal combustion engine 34967  
designed to generate electricity shall be assessed a fee 34968  
established in division (F)(2) of this section. 34969

(b) Notwithstanding division (F)(3)(a) of this section, any 34970  
person issued a permit to install pursuant to rules adopted under 34971  
division (F) of section 3704.03 of the Revised Code shall pay the 34972  
fees set forth in division (F)(3)(c) of this section for a process 34973  
used in any of the following industries, as identified by the 34974  
applicable four-digit standard industrial classification code 34975  
according to the Standard Industrial Classification Manual 34976  
published by the United States office of management and budget in 34977  
the executive office of the president, 1972, as revised: 34978

1211 Bituminous coal and lignite mining; 34979

1213 Bituminous coal and lignite mining services; 34980

1411 Dimension stone; 34981

1422 Crushed and broken limestone; 34982

1427 Crushed and broken stone, not elsewhere classified; 34983

1442 Construction sand and gravel; 34984

1446 Industrial sand; 34985

3281 Cut stone and stone products; 34986

3295 Minerals and earth, ground or otherwise treated. 34987

(c) The fees set forth in the following schedule apply to the 34988  
issuance of a permit to install pursuant to rules adopted under 34989

division (F) of section 3704.03 of the Revised Code for a process		34990
identified in division (F)(3)(b) of this section:		34991
<del>Gallons (maximum</del>		34992
<del>useful capacity</del> <u>Process weight rate</u>	Permit to install	34993
<u>(pounds per hour)</u>		
0 to <del>20,000</del> <u>10,000</u>	\$ <del>100</del> <u>200</u>	34994
<del>20,001</del> <u>10,001</u> to <del>40,000</del> <u>50,000</u>	<del>150</del> <u>400</u>	34995
<del>40,001</del> <u>50,001</u> to 100,000	200 <u>500</u>	34996
100,001 to <del>250,000</del> <u>200,000</u>	<del>250</del> <u>600</u>	34997
<del>250,001</del> <u>200,001</u> to <del>500,000</del> <u>400,000</u>	<del>350</del> <u>750</u>	34998
<del>500,001</del> to <del>1,000,000</del>	500	34999
<del>1,000,001</del> <u>400,001</u> or <del>greater</del> <u>more</u>	<del>750</del> <u>900</u>	35000
<del>(4)</del> <u>(5)</u> Storage tanks		35001
Gallons (maximum useful capacity)	Permit to install	35002
0 to 20,000	\$ 100	35003
20,001 to 40,000	150	35004
40,001 to 100,000	<del>200</del> <u>250</u>	35005
100,001 to <del>250,000</del>	<del>250</del>	35006
<del>250,001</del> to 500,000	<del>350</del> <u>400</u>	35007
500,001 to <del>1,000,000</del>	500	35008
<del>1,000,001</del> or greater	750	35009
<del>(5)</del> <u>(6)</u> Gasoline/fuel dispensing facilities		35010
For each gasoline/fuel	Permit to install	35011
dispensing facility <u>(includes all</u>	\$ 100	35012
<u>units at the facility)</u>		
<del>(6)</del> <u>(7)</u> Dry cleaning facilities		35013
For each dry cleaning		35014
facility (includes all units	Permit to install	35015
at the facility)	\$ 100	35016
<del>(7)</del> <u>(8)</u> Registration status		35017
For each source covered	Permit to install	35018
by registration status	\$ 75	35019

(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	35025
Asbestos removal	\$3/unit	35026
Asbestos cleanup	\$4/cubic yard	35027

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 35051  
division only applies to sources for which actual construction of 35052  
the source begins on or after July 1, 1993. The imposition or 35053  
payment of the fee established in this division does not preclude 35054  
the director from taking any administrative or judicial 35055  
enforcement action under this chapter, Chapter 3704., 3714., 35056  
3734., or 6111. of the Revised Code, or a rule adopted under any 35057  
of them, in connection with a violation of rules adopted under 35058  
division (F) of section 3704.03 of the Revised Code. 35059

As used in this division, "actual construction of the source" 35060  
means the initiation of physical on-site construction activities 35061  
in connection with improvements to the source that are permanent 35062  
in nature, including, without limitation, the installation of 35063  
building supports and foundations and the laying of underground 35064  
pipework. 35065

(K) Fifty cents per ton of each fee assessed under division 35066  
(C) of this section on actual emissions from a source and received 35067  
by the environmental protection agency pursuant to that division 35068  
shall be deposited into the state treasury to the credit of the 35069  
small business assistance fund created in section 3706.19 of the 35070  
Revised Code. The remainder of the moneys received by the division 35071  
pursuant to that division and moneys received by the agency 35072  
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 35073  
section shall be deposited in the state treasury to the credit of 35074  
the clean air fund created in section 3704.035 of the Revised 35075  
Code. 35076

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 35077  
or (c) of this section, a person issued a water discharge permit 35078  
or renewal of a water discharge permit pursuant to Chapter 6111. 35079  
of the Revised Code shall pay a fee based on each point source to 35080  
which the issuance is applicable in accordance with the following 35081  
schedule: 35082

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	35083
1,001 to 5000	100	35084
5,001 to 50,000	200	35085
50,001 to 100,000	300	35086
100,001 to 300,000	525	35087
over 300,000	750	35088

(b) Notwithstanding the fee schedule specified in division 35090  
(L)(1)(a) of this section, the fee for a water discharge permit 35091  
that is applicable to coal mining operations regulated under 35092  
Chapter 1513. of the Revised Code shall be two hundred fifty 35093  
dollars per mine. 35094

(c) Notwithstanding the fee schedule specified in division 35095  
(L)(1)(a) of this section, the fee for a water discharge permit 35096  
for a public discharger identified by I in the third character of 35097  
the permittee's NPDES permit number shall not exceed seven hundred 35098  
fifty dollars. 35099

(2) A person applying for a plan approval for a wastewater 35100  
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 35101  
of the Revised Code shall pay a fee of one hundred dollars plus 35102  
sixty-five one-hundredths of one per cent of the estimated project 35103  
cost through June 30, ~~2004~~ 2006, and one hundred dollars plus 35104  
two-tenths of one per cent of the estimated project cost on and 35105  
after July 1, ~~2004~~ 2006, except that the total fee shall not 35106  
exceed fifteen thousand dollars through June 30, ~~2004~~ 2006, and 35107  
five thousand dollars on and after July 1, ~~2004~~ 2006. The fee 35108  
shall be paid at the time the application is submitted. 35109

(3) A person issued a modification of a water discharge 35110  
permit shall pay a fee equal to one-half the fee that otherwise 35111  
would be charged for a water discharge permit, except that the fee 35112  
for the modification shall not exceed four hundred dollars. 35113

(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 35146  
 this section, shall be based upon the average daily discharge flow 35147  
 in gallons per day calculated using first day of May through 35148  
 thirty-first day of October flow data for the period two years 35149  
 prior to the date on which the fee is due. In the case of NPDES 35150  
 discharge permits for new sources, the fee shall be calculated 35151  
 using the average daily design flow of the facility until actual 35152  
 average daily discharge flow values are available for the time 35153  
 period specified in division (L)(5)(a)(iii) of this section. The 35154  
 annual discharge fee may be prorated for a new source as described 35155  
 in division (L)(5)(a)(ii) of this section. 35156

(b) An NPDES permit holder that is a public discharger shall 35157  
 pay the fee specified in the following schedule: 35158

Average daily	Fee due by	
discharge flow	January 30,	
	<del>2002</del> <u>2004</u> , and	
	January 30, <del>2003</del>	
	<u>2005</u>	
5,000 to 49,999	\$ 200	35163
50,000 to 100,000	500	35164
100,001 to 250,000	1,050	35165
250,001 to 1,000,000	2,600	35166
1,000,001 to 5,000,000	5,200	35167
5,000,001 to 10,000,000	10,350	35168
10,000,001 to 20,000,000	15,550	35169
20,000,001 to 50,000,000	25,900	35170
50,000,001 to 100,000,000	41,400	35171
100,000,001 or more	62,100	35172

Public dischargers owning or operating two or more publicly 35173  
 owned treatment works serving the same political subdivision, as 35174  
 "treatment works" is defined in section 6111.01 of the Revised 35175  
 Code, and that serve exclusively political subdivisions having a 35176

population of fewer than one hundred thousand shall pay an annual 35177  
discharge fee under division (L)(5)(b) of this section that is 35178  
based on the combined average daily discharge flow of the 35179  
treatment works. 35180

(c) An NPDES permit holder that is an industrial discharger, 35181  
other than a coal mining operator identified by P in the third 35182  
character of the permittee's NPDES permit number, shall pay the 35183  
fee specified in the following schedule: 35184

Average daily 35185	Fee due by 35185	
discharge flow 35186	January 30, 35186	
	<del>2002</del> <u>2004</u> , and 35187	
	January 30, <del>2003</del> 35188	
	<u>2005</u>	
5,000 to 49,999 35189	\$ 250 35189	
50,000 to 250,000 35190	1,200 35190	
250,001 to 1,000,000 35191	2,950 35191	
1,000,001 to 5,000,000 35192	5,850 35192	
5,000,001 to 10,000,000 35193	8,800 35193	
10,000,001 to 20,000,000 35194	11,700 35194	
20,000,001 to 100,000,000 35195	14,050 35195	
100,000,001 to 250,000,000 35196	16,400 35196	
250,000,001 or more 35197	18,700 35197	

In addition to the fee specified in the above schedule, an 35198  
NPDES permit holder that is an industrial discharger classified as 35199  
a major discharger during all or part of the annual discharge fee 35200  
billing year specified in division (L)(5)(a)(ii) of this section 35201  
shall pay a nonrefundable annual surcharge of seven thousand five 35202  
hundred dollars not later than January 30, ~~2002~~ 2004, and not 35203  
later than January 30, ~~2003~~ 2005. Any person who fails to pay the 35204  
surcharge at that time shall pay an additional amount that equals 35205  
ten per cent of the amount of the surcharge. 35206

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 35207

section, a public discharger identified by I in the third 35208  
character of the permittee's NPDES permit number and an industrial 35209  
discharger identified by I, J, L, V, W, X, Y, or Z in the third 35210  
character of the permittee's NPDES permit number shall pay a 35211  
nonrefundable annual discharge fee of one hundred eighty dollars 35212  
not later than January 30, ~~2002~~ 2004, and not later than January 35213  
30, ~~2003~~ 2005. Any person who fails to pay the fee at that time 35214  
shall pay an additional amount that equals ten per cent of the 35215  
required fee. 35216

(6) Each person obtaining a national pollutant discharge 35217  
elimination system general or individual permit for municipal 35218  
storm water discharge shall pay a nonrefundable storm water 35219  
discharge fee of one hundred dollars per square mile of area 35220  
permitted. The fee shall not exceed ten thousand dollars and shall 35221  
be payable on or before January 30, 2004, and the thirtieth day of 35222  
January of each year thereafter. Any person who fails to pay the 35223  
fee on the date specified in division (L)(6) of this section shall 35224  
pay an additional amount per year equal to ten per cent of the 35225  
annual fee that is unpaid. 35226

(7) The director shall transmit all moneys collected under 35227  
division (L) of this section to the treasurer of state for deposit 35228  
into the state treasury to the credit of the surface water 35229  
protection fund created in section 6111.038 of the Revised Code. 35230

(8) As used in division (L) of this section: 35231

(a) "NPDES" means the federally approved national pollutant 35232  
discharge elimination system program for issuing, modifying, 35233  
revoking, reissuing, terminating, monitoring, and enforcing 35234  
permits and imposing and enforcing pretreatment requirements under 35235  
Chapter 6111. of the Revised Code and rules adopted under it. 35236

(b) "Public discharger" means any holder of an NPDES permit 35237  
identified by P in the second character of the NPDES permit number 35238

assigned by the director. 35239

(c) "Industrial discharger" means any holder of an NPDES 35240  
permit identified by I in the second character of the NPDES permit 35241  
number assigned by the director. 35242

(d) "Major discharger" means any holder of an NPDES permit 35243  
classified as major by the regional administrator of the United 35244  
States environmental protection agency in conjunction with the 35245  
director. 35246

(M) Through June 30, ~~2004~~ 2006, a person applying for a 35247  
license or license renewal to operate a public water system under 35248  
section 6109.21 of the Revised Code shall pay the appropriate fee 35249  
established under this division at the time of application to the 35250  
director. Any person who fails to pay the fee at that time shall 35251  
pay an additional amount that equals ten per cent of the required 35252  
fee. The director shall transmit all moneys collected under this 35253  
division to the treasurer of state for deposit into the drinking 35254  
water protection fund created in section 6109.30 of the Revised 35255  
Code. 35256

Fees required under this division shall be calculated and 35257  
paid in accordance with the following schedule: 35258

(1) For the initial license required under division (A)(1) of 35259  
section 6109.21 of the Revised Code for any public water system 35260  
that is a community water system as defined in section 6109.01 of 35261  
the Revised Code, and for each license renewal required for such a 35262  
system prior to January 31, ~~2004~~ 2006, the fee is: 35263

Number of service connections	Fee amount	
Not more than 49	<del>\$56</del> <u>112</u>	35265
50 to 99	<del>88</del> <u>176</u>	35266
Number of service connections	Average cost per connection	
100 to 2,499	<del>\$.96</del> <u>1.92</u>	35268
2,500 to 4,999	<del>.92</del> <u>1.60</u>	35269

5,000 to 7,499	<del>-.88</del> <u>1.54</u>	35270
7,500 to 9,999	<del>-.84</del> <u>1.48</u>	35271
10,000 to 14,999	<del>-.80</del> <u>1.28</u>	35272
15,000 to 24,999	<del>-.76</del> <u>1.22</u>	35273
25,000 to 49,999	<del>-.72</del> <u>1.16</u>	35274
50,000 to 99,999	<del>-.68</del> <u>.92</u>	35275
100,000 to 149,999	<del>-.64</del> <u>.86</u>	35276
150,000 to 199,999	<del>-.60</del> <u>.80</u>	35277
200,000 or more	<del>-.56</del> <u>.76</u>	35278

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	\$ <del>56</del> <u>112</u>	35293
150 to 299	<del>88</del> <u>176</u>	35294
300 to 749	<del>192</del> <u>384</u>	35295
750 to 1,499	<del>392</del> <u>686</u>	35296
1,500 to 2,999	<del>792</del> <u>1,386</u>	35297
3,000 to 7,499	<del>1,760</del> <u>3,080</u>	35298
7,500 to 14,999	<del>3,800</del> <u>6,270</u>	35299
15,000 to 22,499	<del>6,240</del> <u>10,296</u>	35300
22,500 to 29,999	<del>8,576</del> <u>14,150</u>	35301



30,000 or more ~~11,600~~ 19,140 35302

As used in division (M)(2) of this section, "population served" means the total number of individuals receiving water from the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection. 35303  
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(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2004~~ 2006, the fee is: 35309  
35310  
35311  
35312  
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Number of wells supplying system	Fee amount	
1	\$ <del>56</del> <u>112</u>	35314 35315
2	<del>56</del> <u>112</u>	35316
3	<del>88</del> <u>176</u>	35317
4	<del>192</del> <u>316</u>	35318
5	<del>392</del> <u>646</u>	35319

System supplied by surface water, springs, or dug wells 35320  
~~792~~ 1,300 35321

As used in division (M)(3) of this section, "number of wells supplying system" means those wells that are physically connected to the plumbing system serving the public water system. 35322  
35323  
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(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus ~~two tenths~~ thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed ~~fifteen~~ twenty thousand dollars through June 30, ~~2004~~ 2006, and ~~five~~ fifteen thousand dollars on and after July 1, ~~2004~~ 2006. The fee shall be paid at the time the application is submitted. 35325  
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(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	<del>\$1,650</del>	35348
<u>MMO-MUG</u>	<u>\$2,000</u>	35349
<u>MF</u>	<u>2,100</u>	35350
<u>MMO-MUG and MF</u>	<u>2,550</u>	35351
organic chemical	<del>3,500</del> <u>5,400</u>	35352
inorganic chemical	<del>3,500</del> <u>5,400</u>	35353
standard chemistry	<del>1,800</del> <u>2,800</u>	35354
limited chemistry	<del>1,000</del> <u>1,550</u>	35355

On and after July 1, ~~2004~~ 2006, the following fee, on a per survey basis, shall be charged any such person:

microbiological	<del>\$250</del> <u>1,650</u>	35358
chemical/radiological	<del>250</del> <u>3,500</u>	35359
nitrate/turbidity (only)	<del>150</del> <u>1,000</u>	35360

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 35365  
person shall pay eighteen hundred dollars for each additional 35366  
survey requested. 35367

As used in division (N)(3) of this section: 35368

(a) "MF" means microfiltration. 35369

(b) "MMO" means minimal medium ONPG. 35370

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 35371

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 35372

The director shall transmit all moneys collected under this 35373  
division to the treasurer of state for deposit into the drinking 35374  
water protection fund created in section 6109.30 of the Revised 35375  
Code. 35376

(O) Any person applying to the director for examination for 35377  
certification as an operator of a water supply system or 35378  
wastewater system under Chapter 6109. or 6111. of the Revised 35379  
Code, at the time the application is submitted, shall pay an 35380  
application fee of ~~twenty-five~~ forty-five dollars through June 30, 35381  
~~2004~~ 2006, and ~~ten~~ twenty-five dollars on and after July 1, ~~2004~~ 35382  
2006. Upon approval from the director that the applicant is 35383  
eligible to take the examination therefor, the applicant shall pay 35384  
a fee in accordance with the following schedule through June 30, 35385  
~~2004~~ 2006: 35386

<u>Class A operator</u>	<u>\$45</u>	35387
Class I operator	<del>\$45</del> <u>75</u>	35388
Class II operator	<del>55</del> <u>95</u>	35389
Class III operator	<del>65</del> <u>110</u>	35390
Class IV operator	<del>75</del> <u>125</u>	35391

On and after July 1, ~~2004~~ 2006, the applicant shall pay a fee 35392  
in accordance with the following schedule: 35393

<u>Class A operator</u>	<u>\$25</u>	35394
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Class I operator	<del>\$25</del> <u>45</u>	35395
Class II operator	<del>35</del> <u>55</u>	35396
Class III operator	<del>45</del> <u>65</u>	35397
Class IV operator	<del>55</del> <u>75</u>	35398

A person shall pay a biennial certification renewal fee for 35399  
each applicable class of certification in accordance with the 35400  
following schedule: 35401

<u>Class A operator</u>	<u>\$25</u>	35402
<u>Class I operator</u>	<u>35</u>	35403
<u>Class II operator</u>	<u>45</u>	35404
<u>Class III operator</u>	<u>55</u>	35405
<u>Class IV operator</u>	<u>65</u>	35406

If a certification renewal fee is received by the director 35407  
more than thirty days, but not more than one year after the 35408  
expiration date of the certification, the person shall pay a 35409  
certification renewal fee in accordance with the following 35410  
schedule: 35411

<u>Class A operator</u>	<u>\$45</u>	35412
<u>Class I operator</u>	<u>55</u>	35413
<u>Class II operator</u>	<u>65</u>	35414
<u>Class III operator</u>	<u>75</u>	35415
<u>Class IV operator</u>	<u>85</u>	35416

A person who requests a replacement certificate shall pay a 35417  
fee of twenty-five dollars at the time the request is made. 35418

The director shall transmit all moneys collected under this 35419  
division to the treasurer of state for deposit into the drinking 35420  
water protection fund created in section 6109.30 of the Revised 35421  
Code. 35422

(P) Through June 30, 2004, any person submitting an 35423  
application for an industrial water pollution control certificate 35424  
under section 6111.31 of the Revised Code shall pay a 35425

nonrefundable fee of five hundred dollars at the time the 35426  
application is submitted. The director shall transmit all moneys 35427  
collected under this division to the treasurer of state for 35428  
deposit into the surface water protection fund created in section 35429  
6111.038 of the Revised Code. A person paying a certificate fee 35430  
under this division shall not pay an application fee under 35431  
division (S)(1) of this section. 35432

(Q) Except as otherwise provided in division (R) of this 35433  
section, a person issued a permit by the director for a new solid 35434  
waste disposal facility other than an incineration or composting 35435  
facility, a new infectious waste treatment facility other than an 35436  
incineration facility, or a modification of such an existing 35437  
facility that includes an increase in the total disposal or 35438  
treatment capacity of the facility pursuant to Chapter 3734. of 35439  
the Revised Code shall pay a fee of ten dollars per thousand cubic 35440  
yards of disposal or treatment capacity, or one thousand dollars, 35441  
whichever is greater, except that the total fee for any such 35442  
permit shall not exceed eighty thousand dollars. A person issued a 35443  
modification of a permit for a solid waste disposal facility or an 35444  
infectious waste treatment facility that does not involve an 35445  
increase in the total disposal or treatment capacity of the 35446  
facility shall pay a fee of one thousand dollars. A person issued 35447  
a permit to install a new, or modify an existing, solid waste 35448  
transfer facility under that chapter shall pay a fee of two 35449  
thousand five hundred dollars. A person issued a permit to install 35450  
a new or to modify an existing solid waste incineration or 35451  
composting facility, or an existing infectious waste treatment 35452  
facility using incineration as its principal method of treatment, 35453  
under that chapter shall pay a fee of one thousand dollars. The 35454  
increases in the permit fees under this division resulting from 35455  
the amendments made by Amended Substitute House Bill 592 of the 35456  
117th general assembly do not apply to any person who submitted an 35457  
application for a permit to install a new, or modify an existing, 35458

solid waste disposal facility under that chapter prior to 35459  
September 1, 1987; any such person shall pay the permit fee 35460  
established in this division as it existed prior to June 24, 1988. 35461  
In addition to the applicable permit fee under this division, a 35462  
person issued a permit to install or modify a solid waste facility 35463  
or an infectious waste treatment facility under that chapter who 35464  
fails to pay the permit fee to the director in compliance with 35465  
division (V) of this section shall pay an additional ten per cent 35466  
of the amount of the fee for each week that the permit fee is 35467  
late. 35468

Permit and late payment fees paid to the director under this 35469  
division shall be credited to the general revenue fund. 35470

(R)(1) A person issued a registration certificate for a scrap 35471  
tire collection facility under section 3734.75 of the Revised Code 35472  
shall pay a fee of two hundred dollars, except that if the 35473  
facility is owned or operated by a motor vehicle salvage dealer 35474  
licensed under Chapter 4738. of the Revised Code, the person shall 35475  
pay a fee of twenty-five dollars. 35476

(2) A person issued a registration certificate for a new 35477  
scrap tire storage facility under section 3734.76 of the Revised 35478  
Code shall pay a fee of three hundred dollars, except that if the 35479  
facility is owned or operated by a motor vehicle salvage dealer 35480  
licensed under Chapter 4738. of the Revised Code, the person shall 35481  
pay a fee of twenty-five dollars. 35482

(3) A person issued a permit for a scrap tire storage 35483  
facility under section 3734.76 of the Revised Code shall pay a fee 35484  
of one thousand dollars, except that if the facility is owned or 35485  
operated by a motor vehicle salvage dealer licensed under Chapter 35486  
4738. of the Revised Code, the person shall pay a fee of fifty 35487  
dollars. 35488

(4) A person issued a permit for a scrap tire monocell or 35489

monofill facility under section 3734.77 of the Revised Code shall 35490  
pay a fee of ten dollars per thousand cubic yards of disposal 35491  
capacity or one thousand dollars, whichever is greater, except 35492  
that the total fee for any such permit shall not exceed eighty 35493  
thousand dollars. 35494

(5) A person issued a registration certificate for a scrap 35495  
tire recovery facility under section 3734.78 of the Revised Code 35496  
shall pay a fee of one hundred dollars. 35497

(6) A person issued a permit for a scrap tire recovery 35498  
facility under section 3734.78 of the Revised Code shall pay a fee 35499  
of one thousand dollars. 35500

(7) In addition to the applicable registration certificate or 35501  
permit fee under divisions (R)(1) to (6) of this section, a person 35502  
issued a registration certificate or permit for any such scrap 35503  
tire facility who fails to pay the registration certificate or 35504  
permit fee to the director in compliance with division (V) of this 35505  
section shall pay an additional ten per cent of the amount of the 35506  
fee for each week that the fee is late. 35507

(8) The registration certificate, permit, and late payment 35508  
fees paid to the director under divisions (R)(1) to (7) of this 35509  
section shall be credited to the scrap tire management fund 35510  
created in section 3734.82 of the Revised Code. 35511

(S)(1) Except as provided by divisions (L), (M), (N), (O), 35512  
(P), and (S)(2) of this section, division (A)(2) of section 35513  
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 35514  
and rules adopted under division (T)(1) of this section, any 35515  
person applying for a registration certificate under section 35516  
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 35517  
variance, or plan approval under Chapter 3734. of the Revised Code 35518  
shall pay a nonrefundable fee of fifteen dollars at the time the 35519  
application is submitted. 35520

Except as otherwise provided, any person applying for a 35521  
permit, variance, or plan approval under Chapter 6109. or 6111. of 35522  
the Revised Code shall pay a nonrefundable fee of one hundred 35523  
dollars at the time the application is submitted through June 30, 35524  
~~2004~~ 2006, and a nonrefundable fee of fifteen dollars at the time 35525  
the application is submitted on and after July 1, ~~2004~~ 2006. 35526  
Through June 30, ~~2004~~ 2006, any person applying for a national 35527  
pollutant discharge elimination system permit under Chapter 6111. 35528  
of the Revised Code shall pay a nonrefundable fee of two hundred 35529  
dollars at the time of application for the permit. On and after 35530  
July 1, ~~2004~~ 2006, such a person shall pay a nonrefundable fee of 35531  
fifteen dollars at the time of application. 35532

In addition to the application fee established under division 35533  
(S)(1) of this section, any person applying for a national 35534  
pollutant discharge elimination system general storm water 35535  
construction permit shall pay a nonrefundable fee of twenty 35536  
dollars per acre for each acre that is permitted above five acres 35537  
at the time the application is submitted. However, the per acreage 35538  
fee shall not exceed three hundred dollars. In addition, any 35539  
person applying for a national pollutant discharge elimination 35540  
system general storm water industrial permit shall pay a 35541  
nonrefundable fee of one hundred fifty dollars at the time the 35542  
application is submitted. 35543

The director shall transmit all moneys collected under 35544  
division (S)(1) of this section pursuant to Chapter 6109. of the 35545  
Revised Code to the treasurer of state for deposit into the 35546  
drinking water protection fund created in section 6109.30 of the 35547  
Revised Code. 35548

The director shall transmit all moneys collected under 35549  
division (S)(1) of this section pursuant to Chapter 6111. of the 35550  
Revised Code to the treasurer of state for deposit into the 35551  
surface water protection fund created in section 6111.038 of the 35552



Revised Code. 35553

If a registration certificate is issued under section 35554  
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 35555  
the application fee paid shall be deducted from the amount of the 35556  
registration certificate fee due under division (R)(1), (2), or 35557  
(5) of this section, as applicable. 35558

If a person submits an electronic application for a 35559  
registration certificate, permit, variance, or plan approval for 35560  
which an application fee is established under division (S)(1) of 35561  
this section, the person shall pay the applicable application fee 35562  
as expeditiously as possible after the submission of the 35563  
electronic application. An application for a registration 35564  
certificate, permit, variance, or plan approval for which an 35565  
application fee is established under division (S)(1) of this 35566  
section shall not be reviewed or processed until the applicable 35567  
application fee, and any other fees established under this 35568  
division, are paid. 35569

(2) Division (S)(1) of this section does not apply to an 35570  
application for a registration certificate for a scrap tire 35571  
collection or storage facility submitted under section 3734.75 or 35572  
3734.76 of the Revised Code, as applicable, if the owner or 35573  
operator of the facility or proposed facility is a motor vehicle 35574  
salvage dealer licensed under Chapter 4738. of the Revised Code. 35575

(T) The director may adopt, amend, and rescind rules in 35576  
accordance with Chapter 119. of the Revised Code that do all of 35577  
the following: 35578

(1) Prescribe fees to be paid by applicants for and holders 35579  
of any license, permit, variance, plan approval, or certification 35580  
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 35581  
the Revised Code that are not specifically established in this 35582  
section. The fees shall be designed to defray the cost of 35583

processing, issuing, revoking, modifying, denying, and enforcing 35584  
the licenses, permits, variances, plan approvals, and 35585  
certifications. 35586

The director shall transmit all moneys collected under rules 35587  
adopted under division (T)(1) of this section pursuant to Chapter 35588  
6109. of the Revised Code to the treasurer of state for deposit 35589  
into the drinking water protection fund created in section 6109.30 35590  
of the Revised Code. 35591

The director shall transmit all moneys collected under rules 35592  
adopted under division (T)(1) of this section pursuant to Chapter 35593  
6111. of the Revised Code to the treasurer of state for deposit 35594  
into the surface water protection fund created in section 6111.038 35595  
of the Revised Code. 35596

(2) Exempt the state and political subdivisions thereof, 35597  
including education facilities or medical facilities owned by the 35598  
state or a political subdivision, or any person exempted from 35599  
taxation by section 5709.07 or 5709.12 of the Revised Code, from 35600  
any fee required by this section; 35601

(3) Provide for the waiver of any fee, or any part thereof, 35602  
otherwise required by this section whenever the director 35603  
determines that the imposition of the fee would constitute an 35604  
unreasonable cost of doing business for any applicant, class of 35605  
applicants, or other person subject to the fee; 35606

(4) Prescribe measures that the director considers necessary 35607  
to carry out this section. 35608

(U) When the director reasonably demonstrates that the direct 35609  
cost to the state associated with the issuance of a permit to 35610  
install, license, variance, plan approval, or certification 35611  
exceeds the fee for the issuance or review specified by this 35612  
section, the director may condition the issuance or review on the 35613  
payment by the person receiving the issuance or review of, in 35614

addition to the fee specified by this section, the amount, or any 35615  
portion thereof, in excess of the fee specified under this 35616  
section. The director shall not so condition issuances for which 35617  
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 35618  
section. 35619

(V) Except as provided in divisions (L), (M), and (P) of this 35620  
section or unless otherwise prescribed by a rule of the director 35621  
adopted pursuant to Chapter 119. of the Revised Code, all fees 35622  
required by this section are payable within thirty days after the 35623  
issuance of an invoice for the fee by the director or the 35624  
effective date of the issuance of the license, permit, variance, 35625  
plan approval, or certification. If payment is late, the person 35626  
responsible for payment of the fee shall pay an additional ten per 35627  
cent of the amount due for each month that it is late. 35628

(W) As used in this section, "fuel-burning equipment," 35629  
"fuel-burning equipment input capacity," "incinerator," 35630  
"incinerator input capacity," "process," "process weight rate," 35631  
"storage tank," "gasoline dispensing facility," "dry cleaning 35632  
facility," "design flow discharge," and "new source treatment 35633  
works" have the meanings ascribed to those terms by applicable 35634  
rules or standards adopted by the director under Chapter 3704. or 35635  
6111. of the Revised Code. 35636

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 35637  
and (J) of this section, and in any other provision of this 35638  
section pertaining to fees paid pursuant to Chapter 3704. of the 35639  
Revised Code: 35640

(1) "Facility," "federal Clean Air Act," "person," and "Title 35641  
V permit" have the same meanings as in section 3704.01 of the 35642  
Revised Code. 35643

(2) "Title V permit program" means the following activities 35644  
as necessary to meet the requirements of Title V of the federal 35645

Clean Air Act and 40 C.F.R. part 70, including at least:	35646
(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;	35647 35648 35649
(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;	35650 35651 35652 35653
(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;	35654 35655 35656
(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;	35657 35658 35659
(e) Emission and ambient monitoring;	35660
(f) Modeling, analyses, or demonstrations;	35661
(g) Preparing inventories and tracking emissions;	35662
(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.	35663 35664 35665 35666 35667 35668 35669
(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	35670 35671 35672 35673 35674 35675

annual volume of sewage sludge treated or disposed of by a sewage 35676  
sludge facility shall be calculated using the first day of January 35677  
through the thirty-first day of December of the calendar year 35678  
preceding the date on which payment of the fee is due. 35679

(2)(a) Except as provided in division (Y)(2)(d) of this 35680  
section, each sewage sludge facility shall pay a minimum annual 35681  
sewage sludge fee of one hundred dollars. 35682

(b) The annual sludge fee required to be paid by a sewage 35683  
sludge facility that treats or disposes of exceptional quality 35684  
sludge in this state shall be thirty-five per cent less per dry 35685  
ton of exceptional quality sludge than the fee assessed under 35686  
division (Y)(1) of this section, subject to the following 35687  
exceptions: 35688

(i) Except as provided in division (Y)(2)(d) of this section, 35689  
a sewage sludge facility that treats or disposes of exceptional 35690  
quality sludge shall pay a minimum annual sewage sludge fee of one 35691  
hundred dollars. 35692

(ii) A sewage sludge facility that treats or disposes of 35693  
exceptional quality sludge shall not be required to pay the annual 35694  
sludge fee for treatment or disposal in this state of exceptional 35695  
quality sludge generated outside of this state and contained in 35696  
bags or other containers not greater than one hundred pounds in 35697  
capacity. 35698

A thirty-five per cent reduction for exceptional quality 35699  
sludge applies to the maximum annual fees established under 35700  
division (Y)(3) of this section. 35701

(c) A sewage sludge facility that transfers sewage sludge to 35702  
another sewage sludge facility in this state for further treatment 35703  
prior to disposal in this state shall not be required to pay the 35704  
annual sludge fee for the tons of sewage sludge that have been 35705  
transferred. In such a case, the sewage sludge facility that 35706

disposes of the sewage sludge shall pay the annual sludge fee. 35707  
However, the facility transferring the sewage sludge shall pay the 35708  
one-hundred-dollar minimum fee required under division (Y)(2)(a) 35709  
of this section. 35710

In the case of a sewage sludge facility that treats sewage 35711  
sludge in this state and transfers it out of this state to another 35712  
entity for disposal, the sewage sludge facility in this state 35713  
shall be required to pay the annual sludge fee for the tons of 35714  
sewage sludge that have been transferred. 35715

(d) A sewage sludge facility that generates sewage sludge 35716  
resulting from an average daily discharge flow of less than five 35717  
thousand gallons per day is not subject to the fees assessed under 35718  
division (Y) of this section. 35719

(3) No sewage sludge facility required to pay the annual 35720  
sludge fee shall be required to pay more than the maximum annual 35721  
fee for each disposal method that the sewage sludge facility uses. 35722  
The maximum annual fee does not include the additional amount that 35723  
may be charged under division (Y)(5) of this section for late 35724  
payment of the annual sludge fee. The maximum annual fee for the 35725  
following methods of disposal of sewage sludge is as follows: 35726

(a) Incineration: five thousand dollars; 35727

(b) Preexisting land reclamation project or disposal in a 35728  
landfill: five thousand dollars; 35729

(c) Land application, land reclamation, surface disposal, or 35730  
any other disposal method not specified in division (Y)(3)(a) or 35731  
(b) of this section: twenty thousand dollars. 35732

(4)(a) In the case of an entity that generates sewage sludge 35733  
or a sewage sludge facility that treats sewage sludge and 35734  
transfers the sewage sludge to an incineration facility for 35735  
disposal, the incineration facility, and not the entity generating 35736  
the sewage sludge or the sewage sludge facility treating the 35737

sewage sludge, shall pay the annual sludge fee for the tons of 35738  
sewage sludge that are transferred. However, the entity or 35739  
facility generating or treating the sewage sludge shall pay the 35740  
one-hundred-dollar minimum fee required under division (Y)(2)(a) 35741  
of this section. 35742

(b) In the case of an entity that generates sewage sludge and 35743  
transfers the sewage sludge to a landfill for disposal or to a 35744  
sewage sludge facility for land reclamation or surface disposal, 35745  
the entity generating the sewage sludge, and not the landfill or 35746  
sewage sludge facility, shall pay the annual sludge fee for the 35747  
tons of sewage sludge that are transferred. 35748

(5) Not later than the first day of April of the calendar 35749  
year following March 17, 2000, and each first day of April 35750  
thereafter, the director shall issue invoices to persons who are 35751  
required to pay the annual sludge fee. The invoice shall identify 35752  
the nature and amount of the annual sludge fee assessed and state 35753  
the first day of May as the deadline for receipt by the director 35754  
of objections regarding the amount of the fee and the first day of 35755  
July as the deadline for payment of the fee. 35756

Not later than the first day of May following receipt of an 35757  
invoice, a person required to pay the annual sludge fee may submit 35758  
objections to the director concerning the accuracy of information 35759  
regarding the number of dry tons of sewage sludge used to 35760  
calculate the amount of the annual sludge fee or regarding whether 35761  
the sewage sludge qualifies for the exceptional quality sludge 35762  
discount established in division (Y)(2)(b) of this section. The 35763  
director may consider the objections and adjust the amount of the 35764  
fee to ensure that it is accurate. 35765

If the director does not adjust the amount of the annual 35766  
sludge fee in response to a person's objections, the person may 35767  
appeal the director's determination in accordance with Chapter 35768  
119. of the Revised Code. 35769

Not later than the first day of June, the director shall 35770  
notify the objecting person regarding whether the director has 35771  
found the objections to be valid and the reasons for the finding. 35772  
If the director finds the objections to be valid and adjusts the 35773  
amount of the annual sludge fee accordingly, the director shall 35774  
issue with the notification a new invoice to the person 35775  
identifying the amount of the annual sludge fee assessed and 35776  
stating the first day of July as the deadline for payment. 35777

Not later than the first day of July, any person who is 35778  
required to do so shall pay the annual sludge fee. Any person who 35779  
is required to pay the fee, but who fails to do so on or before 35780  
that date shall pay an additional amount that equals ten per cent 35781  
of the required annual sludge fee. 35782

(6) The director shall transmit all moneys collected under 35783  
division (Y) of this section to the treasurer of state for deposit 35784  
into the surface water protection fund created in section 6111.038 35785  
of the Revised Code. The moneys shall be used to defray the costs 35786  
of administering and enforcing provisions in Chapter 6111. of the 35787  
Revised Code and rules adopted under it that govern the use, 35788  
storage, treatment, or disposal of sewage sludge. 35789

(7) Beginning in fiscal year 2001, and every two years 35790  
thereafter, the director shall review the total amount of moneys 35791  
generated by the annual sludge fees to determine if that amount 35792  
exceeded six hundred thousand dollars in either of the two 35793  
preceding fiscal years. If the total amount of moneys in the fund 35794  
exceeded six hundred thousand dollars in either fiscal year, the 35795  
director, after review of the fee structure and consultation with 35796  
affected persons, shall issue an order reducing the amount of the 35797  
fees levied under division (Y) of this section so that the 35798  
estimated amount of moneys resulting from the fees will not exceed 35799  
six hundred thousand dollars in any fiscal year. 35800



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:	35832
(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);	35833 35834
(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);	35835 35836
(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;	35837 35838
(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.	35839 35840
(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.	35841 35842 35843
(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.	35844 35845 35846
(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.	35847 35848 35849 35850 35851
(g) "Land reclamation" means the returning of disturbed land to productive use.	35852 35853
(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.	35854 35855 35856 35857
(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.	35858 35859 35860 35861

(j) "Incineration facility" includes all incinerators owned 35862  
or operated by the same entity and located on a contiguous tract 35863  
of land. Areas of land are considered to be contiguous even if 35864  
they are separated by a public road or highway. 35865

(k) "Annual sludge fee" means the fee assessed under division 35866  
(Y)(1) of this section. 35867

(l) "Landfill" means a sanitary landfill facility, as defined 35868  
in rules adopted under section 3734.02 of the Revised Code, that 35869  
is licensed under section 3734.05 of the Revised Code. 35870

(m) "Preexisting land reclamation project" means a 35871  
property-specific land reclamation project that has been in 35872  
continuous operation for not less than five years pursuant to 35873  
approval of the activity by the director and includes the 35874  
implementation of a community outreach program concerning the 35875  
activity. 35876

**Sec. 3745.14.** (A) As used in this section: 35877

(1) "Compliance review" means the review of an application 35878  
for a permit, renewal of a permit, or plan approval, or 35879  
modification thereof, for an existing or proposed facility, 35880  
source, or activity and the accompanying engineering plans, 35881  
specifications, and materials and information that are submitted 35882  
under Chapter 3704., 3734., 6109., or 6111. of the Revised Code 35883  
and rules adopted under them for compliance with performance 35884  
standards under the applicable chapter and rules adopted under it. 35885  
"Compliance review" does not include the review of an application 35886  
for a hazardous waste facility installation and operation permit 35887  
or the renewal or modification of such a permit, a permit to 35888  
establish or modify an infectious waste treatment facility, a 35889  
permit to install a solid waste incineration facility that also 35890  
would treat infectious wastes, or a permit to modify a solid waste 35891

incineration facility to also treat infectious wastes under	35892
Chapter 3734. of the Revised Code.	35893
(2) "Engineer" includes both of the following:	35894
(a) A professional engineer registered under Chapter 4733. of	35895
the Revised Code;	35896
(b) A firm, partnership, association, or corporation	35897
providing engineering services in this state in compliance with	35898
Chapter 4733. of the Revised Code.	35899
(B) The director of environmental protection, in accordance	35900
with Chapter 119. of the Revised Code, shall adopt, and may amend	35901
and rescind, rules establishing a program for the certification of	35902
engineers to conduct compliance reviews. The rules, at a minimum,	35903
shall do all of the following:	35904
(1) Require that the program be administered by the director;	35905
(2) Establish eligibility criteria for certification to	35906
conduct compliance reviews;	35907
(3) Establish criteria for denying, suspending, and revoking	35908
certifications and renewals of certifications issued pursuant to	35909
rules adopted under division (B) of this section;	35910
(4) Require the periodic renewal of certifications issued	35911
pursuant to rules adopted under division (B) of this section;	35912
(5) Establish an application fee and fee for issuance for	35913
certifications under this section. The fees shall be established	35914
at a level calculated to defray the costs to the environmental	35915
protection agency for administering the certification program	35916
established by rules adopted under division (B) of this section.	35917
All such application and certification fees received by the	35918
director shall be deposited into the state treasury to the credit	35919
of the permit review fund created in division (E) of this section.	35920
(C) The director shall maintain a current list of all	35921

engineers who are certified to conduct compliance reviews pursuant 35922  
to rules adopted under this section. The list shall indicate the 35923  
types of permits, permit renewals, and plan approvals that each 35924  
engineer is certified to review and the types or categories of 35925  
facilities, sources, or activities in connection with which the 35926  
engineer is certified to conduct the reviews. Upon request, the 35927  
director shall provide a copy of the list to anyone requesting it. 35928

(D) An applicant for a permit, renewal of a permit, plan 35929  
approval, or modification thereof, under Chapter 3704., 3734., 35930  
6109., or 6111. of the Revised Code and applicable rules adopted 35931  
under them, other than a hazardous waste facility installation and 35932  
operation permit or renewal or modification of such a permit, a 35933  
permit to establish or modify an infectious waste treatment 35934  
facility, a permit to install a solid waste incineration facility 35935  
that also would treat infectious wastes, or a permit to modify a 35936  
solid waste incineration facility to also treat infectious wastes 35937  
under Chapter 3734. of the Revised Code, may submit a written 35938  
request to the director to have the compliance review conducted by 35939  
an engineer certified under this section. The request shall 35940  
accompany the permit application, shall indicate the applicant's 35941  
choice from among the certified engineers on the director's list 35942  
who are qualified to conduct the compliance review, shall be 35943  
accompanied by separate certifications by the applicant and the 35944  
engineer indicating that the applicant does not have and has not 35945  
had during the preceding two years a financial interest in the 35946  
engineer and has not employed or retained the engineer to perform 35947  
services for the applicant during the preceding two years, and may 35948  
be accompanied by a draft proposal for conducting the compliance 35949  
review that was developed by the applicant and the engineer. No 35950  
such draft proposal is binding upon the director. 35951

Within seven days after receiving a request under this 35952  
division, the director shall do all of the following, as 35953

appropriate: 35954

(1) In the director's discretion, approve or disapprove the 35955  
applicant's request to have the compliance review of the 35956  
application conducted by an engineer on the list of certified 35957  
engineers prepared under this section; 35958

(2) If the director approves the conducting of the compliance 35959  
review by such a certified engineer, approve or disapprove, in the 35960  
director's discretion, the applicant's choice of the engineer; 35961

(3) Mail written notice of decisions made under divisions 35962  
(D)(1) and (2) of this section to the applicant. 35963

If the director fails to mail notice of the director's 35964  
decisions on the request to the applicant within seven days after 35965  
receiving the request, it is conclusively presumed that the 35966  
director approved the applicant's request to have the compliance 35967  
review conducted by a certified engineer and the applicant's 35968  
choice of the engineer, and the director shall enter into a 35969  
contract with the engineer chosen by the applicant. If the 35970  
director disapproves the applicant's choice of an engineer and 35971  
provides timely notice of the disapproval to the applicant, the 35972  
director and applicant, by mutual agreement, shall select another 35973  
engineer from the list prepared under this section to conduct the 35974  
compliance review, and the director shall enter into a contract 35975  
with that engineer. 35976

(E) The director may enter into contracts for conducting 35977  
performance reviews under division (D) of this section without 35978  
advertising for bids. The commencement of any work under such a 35979  
contract shall be contingent upon the director's receipt of 35980  
payment from the applicant of an amount that is equal to one 35981  
hundred ten per cent of the amount specified in the contract, 35982  
excluding contingencies for any additional work that may be needed 35983  
to properly complete the review and that was not anticipated when 35984

the contract was made. Moneys received by the director from an 35985  
applicant shall be deposited into the permit review fund, which is 35986  
hereby created in the state treasury. The director shall use 35987  
moneys in the fund to pay the cost of compliance reviews conducted 35988  
pursuant to contracts entered into under division (D) of this 35989  
section and to administer the certification program established 35990  
under division (B) of this section. The director may use any 35991  
moneys in the fund not needed for those purposes to administer the 35992  
environmental laws or programs of this state. 35993

If, while conducting a compliance review, the engineer finds 35994  
that work in addition to that upon which the cost under the 35995  
contract was based, or any additional work previously authorized 35996  
under this division, is needed to properly review the application 35997  
and accompanying information for compliance with the applicable 35998  
performance standards, the engineer shall notify the director of 35999  
that fact and of the cost of the additional work, as determined 36000  
pursuant to the terms of the contract. If the director finds that 36001  
the additional work is needed and that the costs of performing the 36002  
work have been determined in accordance with the terms of the 36003  
contract, the director shall authorize the contractor to perform 36004  
the work. Upon completion of the additional work, the contractor 36005  
shall submit to the director an invoice for the cost of performing 36006  
the additional work, and the director shall forward a copy of the 36007  
invoice to the applicant. The applicant is liable to the state for 36008  
an amount equal to one hundred ten per cent of the cost of 36009  
performing the additional work and, within thirty days after 36010  
receiving a copy of the invoice, shall pay to the director an 36011  
amount equal to one hundred ten per cent of the amount indicated 36012  
on the invoice. Upon receiving this payment, the director shall 36013  
forward the moneys to the treasurer of state, who shall deposit 36014  
them into the state treasury to the credit of the permit review 36015  
fund. 36016

Until the applicant pays to the director the amount due in 36017  
connection with the additional work, the director shall not issue 36018  
to the applicant any permit, renewal of a permit, or plan 36019  
approval, or modification thereof, for which an application is 36020  
pending before the director. The director also may certify the 36021  
unpaid amount to the attorney general and request that the 36022  
attorney general bring a civil action against the applicant to 36023  
recover that amount. Any moneys so recovered shall be deposited 36024  
into the state treasury to the credit of the permit review fund. 36025

(F) Upon completing a compliance review conducted under this 36026  
section, the engineer shall make a certification to the director 36027  
as to whether the existing or proposed facility, source, activity, 36028  
or modification will comply with the applicable performance 36029  
standards. If the certification indicates that the existing or 36030  
proposed facility, source, activity, or modification will not 36031  
comply, the engineer shall include in the certification the 36032  
engineer's findings as to the causes of the noncompliance. 36033

(G) When a compliance review is conducted by an engineer 36034  
certified under this section, the other activities in connection 36035  
with the consideration, approval, and issuance of the permit, 36036  
renewal of the permit, or plan approval, or modification thereof, 36037  
shall be conducted by the director ~~or, when applicable, the~~ 36038  
~~hazardous waste facility board established in section 3734.05 of~~ 36039  
~~the Revised Code,~~ in accordance with the applicable provisions of 36040  
Chapter 3704., 3734., 6109., or 6111. of the Revised Code and 36041  
rules adopted under the applicable chapter. 36042

(H) All expenses incurred by the attorney general in bringing 36043  
a civil action under this section shall be reimbursed from the 36044  
permit review fund in accordance with Chapter 109. of the Revised 36045  
Code. 36046

**Sec. 3745.40.** (A) There is hereby created the clean Ohio 36047



operating fund consisting of moneys credited to the fund in 36048  
accordance with this section. The fund shall be used to pay the 36049  
costs incurred by the director of environmental protection 36050  
pursuant to sections 122.65 to 122.658 of the Revised Code. 36051  
Investment earnings of the fund shall be credited to the fund. ~~For~~ 36052  
~~two years after the effective date of this section, investment~~ 36053  
~~earnings credited to the fund~~ and may be used to pay 36054  
administrative costs incurred by the director pursuant to those 36055  
sections. 36056

(B) Notwithstanding section 3746.16 of the Revised Code, upon 36057  
the request of the director of environmental protection, the 36058  
director of development shall certify to the director of budget 36059  
and management the amount of excess investment earnings that are 36060  
available to be transferred from the clean Ohio revitalization 36061  
fund created in section 122.658 of the Revised Code to the clean 36062  
Ohio operating fund. Upon certification, the director of budget 36063  
and management may transfer from the clean Ohio revitalization 36064  
fund to the clean Ohio operating fund an amount not exceeding the 36065  
amount of the annual appropriation to the clean Ohio operating 36066  
fund. 36067

**Sec. 3746.13.** (A) For property that does not involve the 36068  
issuance of a consolidated standards permit under section 3746.15 36069  
of the Revised Code and where no engineering or institutional 36070  
controls are used to comply with applicable standards, the 36071  
director of environmental protection shall issue a covenant not to 36072  
sue pursuant to section 3746.12 of the Revised Code by issuance of 36073  
an order as a final action under Chapter 3745. of the Revised Code 36074  
within thirty days after the director receives the no further 36075  
action letter for the property and accompanying verification from 36076  
the certified professional who prepared the letter under section 36077  
3746.11 of the Revised Code. 36078

(B) For property that involves the issuance of a consolidated standards permit under section 3746.15 of the Revised Code or where engineering or institutional controls are used to comply with applicable standards, the director shall issue a covenant not to sue by issuance of an order as a final action under Chapter 3745. of the Revised Code within ninety days after the director receives the no further action letter for the property and accompanying verification from the certified professional who prepared the letter.

(C) Except as provided in division (D) of this section, each person who is issued a covenant not to sue under this section shall pay the fee established pursuant to rules adopted under division (B)(8) of section 3746.04 of the Revised Code. Until those rules become effective, each person who is issued a covenant not to sue shall pay a fee of two thousand dollars. The fee shall be paid to the director at the time that the no further action letter and accompanying verification are submitted to the director.

(D) An applicant, as defined in section 122.65 of the Revised Code, who has entered into an agreement under section 122.653 of the Revised Code and who is issued a covenant not to sue under this section shall not be required to pay the fee for the issuance of a covenant not to sue established in rules adopted under division (B)(8) of section 3746.04 of the Revised Code.

**Sec. 3747.16.** (A) As provided in division (A)(17) of section 3747.06 of the Revised Code, the staff of the board of directors of the Ohio low-level radioactive waste facility development authority shall negotiate with the legislative authority of the host community for the purpose of developing a compensation agreement. The agreement shall include compensation for all of the following:

(1) Replacement of lost tax revenue due to public ownership 36110  
of any property based on the amount of tax revenue that would have 36111  
been received if the property had not been acquired by the 36112  
authority on behalf of the state for use as a disposal site; 36113

(2) Improvements in the public infrastructure necessary to 36114  
support development and operation of the facility; 36115

(3) The hiring of employees to address the increased 36116  
administrative workload resulting from siting the facility in the 36117  
host community and to establish a local public information 36118  
program; 36119

(4) Enhanced emergency response capability, including, 36120  
without limitation, personnel and equipment; 36121

(5) The hiring of an independent, qualified inspector to be 36122  
located at the facility during the period of construction and 36123  
operation, with continuing responsibility to monitor all 36124  
activities associated with closure, institutional control, and 36125  
long-term care; 36126

(6) Compensation for additional direct impacts not identified 36127  
in divisions (A)(1) to (5) of this section that may result from 36128  
siting the facility in the host community. 36129

Following the negotiations, the board shall approve, approve 36130  
with modifications requested by the board, or disapprove the 36131  
agreement in accordance with division (A)(17) of section 3747.06 36132  
of the Revised Code. ~~If the staff of the board and the legislative 36133  
authority of the host community fail to agree on a compensation 36134  
agreement, the board shall submit the matter for resolution to the 36135  
Ohio commission on dispute resolution and conflict management 36136  
created in Chapter 179. of the Revised Code.~~ 36137

(B)(1) In addition to entering into an agreement with the 36138  
board for compensation for direct impacts, the host community may 36139

negotiate a benefits agreement with the staff of the board. In 36140  
accordance with division (A)(17) of section 3747.06 of the Revised 36141  
Code, the board shall approve, approve with modifications 36142  
requested by the board, or disapprove any such agreement. 36143

(2) The legislative authority of the host community may 36144  
request the board to establish epidemiological health studies in 36145  
the host community in accordance with division (A)(18) of section 36146  
3747.06 of the Revised Code. 36147

(C) An affected community may petition the board for 36148  
compensation for direct impacts on that community. The staff of 36149  
the board shall negotiate any such agreement, and the board shall 36150  
approve, approve with modifications requested by the board, or 36151  
disapprove the agreement in accordance with division (A)(17) of 36152  
section 3747.06 of the Revised Code. 36153

(D) At any time after final determination of licensure of the 36154  
facility and until the expiration of the first five years that the 36155  
facility is in operation, a property owner within the host 36156  
community or an affected community who is selling or attempting to 36157  
sell the property owner's property and who can demonstrate to the 36158  
board that the property has been devalued as a direct result of 36159  
the siting of the facility in the host community may petition the 36160  
board for compensation or for the purchase of the property in 36161  
accordance with rules adopted under division (A)(13) of section 36162  
3747.07 of the Revised Code. 36163

**Sec. 3748.07.** (A) Every facility that proposes to handle 36164  
radioactive material or radiation-generating equipment for which 36165  
licensure or registration, respectively, by its handler is 36166  
required shall apply in writing to the director of health on forms 36167  
prescribed and provided by the director for licensure or 36168  
registration. Terms and conditions of licenses and certificates of 36169  
registration may be amended in accordance with rules adopted under 36170

section 3748.04 of the Revised Code or orders issued by the 36171  
director pursuant to section 3748.05 of the Revised Code. 36172

(B) Until rules are adopted under section 3748.04 of the 36173  
Revised Code, an application for a certificate of registration 36174  
shall be accompanied by a biennial registration fee of ~~one~~ two 36175  
hundred ~~sixty~~ dollars. On and after the effective date of those 36176  
rules, an applicant for a license, registration certificate, or 36177  
renewal of either shall pay the appropriate fee established in 36178  
those rules. 36179

All fees collected under this section shall be deposited in 36180  
the state treasury to the credit of the general operations fund 36181  
created in section 3701.83 of the Revised Code. The fees shall be 36182  
used solely to administer and enforce this chapter and rules 36183  
adopted under it. 36184

Any fee required under this section that has not been paid 36185  
within ninety days after the invoice date shall be assessed at two 36186  
times the original invoiced fee. Any fee that has not been paid 36187  
within one hundred eighty days after the invoice date shall be 36188  
assessed at five times the original invoiced fee. 36189

(C) The director shall grant a license or registration to any 36190  
applicant who has paid the required fee and is in compliance with 36191  
this chapter and rules adopted under it. 36192

Until rules are adopted under section 3748.04 of the Revised 36193  
Code, certificates of registration shall be effective for two 36194  
years from the date of issuance. On and after the effective date 36195  
of those rules, licenses and certificates of registration shall be 36196  
effective for the applicable period established in those rules. 36197  
Licenses and certificates of registration shall be renewed in 36198  
accordance with the standard renewal procedure established in 36199  
Chapter 4745. of the Revised Code. 36200

**Sec. 3748.13.** (A) The director of health shall inspect 36201  
sources of radiation for which licensure or registration by the 36202  
handler is required, and the sources' shielding and surroundings, 36203  
according to the schedule established in rules adopted under 36204  
division (D) of section 3748.04 of the Revised Code. In accordance 36205  
with rules adopted under that section, the director shall inspect 36206  
all records and operating procedures of handlers that install 36207  
sources of radiation and all sources of radiation for which 36208  
licensure of radioactive material or registration of 36209  
radiation-generating equipment by the handler is required. The 36210  
director may make other inspections upon receiving complaints or 36211  
other evidence of violation of this chapter or rules adopted under 36212  
it. 36213

The director shall require any hospital registered under 36214  
division (A) of section 3701.07 of the Revised Code to develop and 36215  
maintain a quality assurance program for all sources of 36216  
radiation-generating equipment. A certified radiation expert shall 36217  
conduct oversight and maintenance of the program and shall file a 36218  
report of audits of the program with the director on forms 36219  
prescribed by the director. The audit reports shall become part of 36220  
the inspection record. 36221

(B) Until rules are adopted under division (A)(8) of section 36222  
3748.04 of the Revised Code, a facility shall pay inspection fees 36223  
according to the following schedule and categories: 36224

First dental x-ray tube	\$ <del>94.00</del> <u>118.00</u>	36225
Each additional dental x-ray tube at the same location	\$ <del>47.00</del> <u>59.00</u>	36226
First medical x-ray tube	<del>\$187.00</del> <u>235.00</u>	36227
Each additional medical x-ray tube at the same location	\$ <del>94.00</del> <u>125.00</u>	36228
Each unit of ionizing	<del>\$373.00</del> <u>466.00</u>	36229

radiation-generating equipment  
 capable of operating at or above  
 250 kilovoltage peak

First nonionizing \$~~187.00~~ 235.00 36230

radiation-generating equipment of  
 any kind

Each additional nonionizing \$ ~~94.00~~ 125.00 36231

radiation-generating equipment of  
 any kind at the same location

Assembler-maintainer inspection \$~~233.00~~ 291.00 36232

consisting of an inspection of  
 records and operating procedures  
 of handlers that install sources  
 of radiation

Until rules are adopted under division (A)(8) of section 36233  
 3748.04 of the Revised Code, the fee for an inspection to 36234  
 determine whether violations cited in a previous inspection have 36235  
 been corrected is fifty per cent of the fee applicable under the 36236  
 schedule in this division. Until those rules are adopted, the fee 36237  
 for the inspection of a facility that is not licensed or 36238  
 registered and for which no license or registration application is 36239  
 pending at the time of inspection is ~~two~~ three hundred ~~ninety~~ 36240  
sixty-three dollars plus the fee applicable under the schedule in 36241  
 this division. 36242

The director may conduct a review of shielding plans or the 36243  
 adequacy of shielding on the request of a licensee or registrant 36244  
 or an applicant for licensure or registration or during an 36245  
 inspection when the director considers a review to be necessary. 36246  
 Until rules are adopted under division (A)(8) of section 3748.04 36247  
 of the Revised Code, the fee for the review is ~~four~~ five hundred 36248  
~~sixty-six~~ eighty-three dollars for each room where a source of 36249  
 radiation is used and is in addition to any other fee applicable 36250

under the schedule in this division. 36251

All fees shall be paid to the department of health no later 36252  
than thirty days after the invoice for the fee is mailed. Fees 36253  
shall be deposited in the general operations fund created in 36254  
section 3701.83 of the Revised Code. The fees shall be used solely 36255  
to administer and enforce this chapter and rules adopted under it. 36256

Any fee required under this section that has not been paid 36257  
within ninety days after the invoice date shall be assessed at two 36258  
times the original invoiced fee. Any fee that has not been paid 36259  
within one hundred eighty days after the invoice date shall be 36260  
assessed at five times the original invoiced fee. 36261

(C) If the director determines that a board of health of a 36262  
city or general health district is qualified to conduct 36263  
inspections of radiation-generating equipment, the director may 36264  
delegate to the board, by contract, the authority to conduct such 36265  
inspections. In making a determination of the qualifications of a 36266  
board of health to conduct those inspections, the director shall 36267  
evaluate the credentials of the individuals who are to conduct the 36268  
inspections of radiation-generating equipment and the radiation 36269  
detection and measuring equipment available to them for that 36270  
purpose. If a contract is entered into, the board shall have the 36271  
same authority to make inspections of radiation-generating 36272  
equipment as the director has under this chapter and rules adopted 36273  
under it. The contract shall stipulate that only individuals 36274  
approved by the director as qualified shall be permitted to 36275  
inspect radiation-generating equipment under the contract's 36276  
provisions. The contract shall provide for such compensation for 36277  
services as is agreed to by the director and the board of health 36278  
of the contracting health district. The director may reevaluate 36279  
the credentials of the inspection personnel and their radiation 36280  
detecting and measuring equipment as often as the director 36281  
considers necessary and may terminate any contract with the board 36282



of health of any health district that, in the director's opinion, 36283  
is not satisfactorily performing the terms of the contract. 36284

(D) The director may enter at all reasonable times upon any 36285  
public or private property to determine compliance with this 36286  
chapter and rules adopted under it. 36287

**Sec. 3769.087.** (A) In addition to the commission of eighteen 36288  
per cent retained by each permit holder as provided in section 36289  
3769.08 of the Revised Code, each permit holder shall retain an 36290  
additional amount equal to four per cent of the total of all 36291  
moneys wagered on each racing day on all wagering pools other than 36292  
win, place, and show, of which amount retained an amount equal to 36293  
three per cent of the total of all moneys wagered on each racing 36294  
day on those pools shall be paid by check, draft, or money order 36295  
to the tax commissioner, as a tax. Subject to the restrictions 36296  
contained in divisions (B), (C), and (M) of section 3769.08 of the 36297  
Revised Code, from such additional moneys paid to the tax 36298  
commissioner: 36299

(1) Four-sixths shall be allocated to fund distribution as 36300  
provided in division (M) of section 3769.08 of the Revised Code. 36301

(2) One-twelfth shall be paid into the Ohio fairs fund 36302  
created by section 3769.082 of the Revised Code. 36303

(3) One-twelfth of the additional moneys paid to the tax 36304  
commissioner by thoroughbred racing permit holders shall be paid 36305  
into the Ohio thoroughbred race fund created by section 3769.083 36306  
of the Revised Code. 36307

(4) One-twelfth of the additional moneys paid to the tax 36308  
commissioner by harness horse racing permit holders shall be paid 36309  
to the Ohio standardbred development fund created by section 36310  
3769.085 of the Revised Code. 36311

(5) One-twelfth of the additional moneys paid to the tax 36312

commissioner by quarter horse racing permit holders shall be paid 36313  
to the Ohio quarter horse development fund created by section 36314  
3769.086 of the Revised Code. 36315

(6) One-sixth shall be paid into the state racing commission 36316  
operating fund created by section 3769.03 of the Revised Code. 36317

The remaining one per cent that is retained of the total of 36318  
all moneys wagered on each racing day on all pools other than win, 36319  
place, and show, shall be retained by racing permit holders, and, 36320  
except as otherwise provided in section 3769.089 of the Revised 36321  
Code, racing permit holders shall use one-half for purse money and 36322  
retain one-half. 36323

(B) In addition to the commission of eighteen per cent 36324  
retained by each permit holder as provided in section 3769.08 of 36325  
the Revised Code and the additional amount retained by each permit 36326  
holder as provided in division (A) of this section, each permit 36327  
holder shall retain an additional amount equal to one-half of one 36328  
per cent of the total of all moneys wagered on each racing day on 36329  
all wagering pools other than win, place, and show. ~~From~~ Except as 36330  
provided in division (C) of this section, from the additional 36331  
amount retained under this division, each permit holder shall 36332  
retain an amount equal to one-quarter of one per cent of the total 36333  
of all moneys wagered on each racing day on all pools other than 36334  
win, place, and show and shall pay that amount by check, draft, or 36335  
money order to the tax commissioner, as a tax. The tax 36336  
commissioner shall pay the amount of the tax received under this 36337  
division to the state racing commission operating fund created by 36338  
section 3769.03 of the Revised Code. 36339

The Except as provided in division (C) of this section, the 36340  
remaining one-quarter of one per cent that is retained from the 36341  
total of all moneys wagered on each racing day on all pools other 36342  
than win, place, and show shall be retained by the permit holder, 36343  
and the permit holder shall use one-half for purse money and 36344

retain one-half. 36345

(C) During the period commencing on July 1, 2003, and ending 36346  
on and including June 30, 2005, the additional amount retained by 36347  
each permit holder under division (B) of this section shall be 36348  
paid by check, draft, or money order to the tax commissioner, as a 36349  
tax. The tax commissioner shall pay the amount of the tax received 36350  
under this division to the state racing commission operating fund 36351  
created by section 3769.03 of the Revised Code. 36352

**Sec. 3770.07.** (A)~~(1)~~ Lottery prize awards shall be claimed by 36353  
the holder of the winning lottery ticket, or by the executor or 36354  
administrator, or the trustee of a trust, of the estate of a 36355  
deceased holder of a winning ticket, in a manner to be determined 36356  
by the state lottery commission, within one hundred eighty days 36357  
after the date on which such prize award was announced if the 36358  
lottery game is an on-line game, and within one hundred eighty 36359  
days after the close of the game if the lottery game is an instant 36360  
game. ~~Except as otherwise provided in division (B) of this~~ 36361  
~~section, if~~ If no valid claim to the prize award is made within 36362  
the prescribed period, the prize money or the cost of goods and 36363  
services awarded as prizes, or if such goods or services are 36364  
resold by the commission, the proceeds from such sale, shall be 36365  
returned to the state lottery fund and distributed in accordance 36366  
with section 3770.06 of the Revised Code. 36367

~~(2)~~(B) If a prize winner, as defined in section 3770.10 of 36368  
the Revised Code, is under eighteen years of age, or is under some 36369  
other legal disability, and the prize money or the cost of goods 36370  
or services awarded as a prize exceeds one thousand dollars, the 36371  
director shall order that payment be made to the order of the 36372  
legal guardian of that prize winner. If the amount of the prize 36373  
money or the cost of goods or services awarded as a prize is one 36374  
thousand dollars or less, the director may order that payment be 36375

made to the order of the adult member, if any, of that prize 36376  
winner's family legally responsible for the care of that prize 36377  
winner. 36378

~~(3)~~(C) No right of any prize winner, as defined in section 36379  
3770.10 of the Revised Code, to a prize award shall be the subject 36380  
of a security interest or used as collateral. 36381

~~(4)~~(a)(D)(1) No right of any prize winner, as defined in 36382  
section 3770.10 of the Revised Code, to a prize award shall be 36383  
assignable, or subject to garnishment, attachment, execution, 36384  
withholding, or deduction, except as follows: as provided in 36385  
sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the 36386  
Revised Code; when the payment is to be made to the executor or 36387  
administrator or the trustee of a trust of the estate of a winning 36388  
ticket holder; when the award of a prize is disputed, any person 36389  
may be awarded a prize award to which another has claimed title, 36390  
pursuant to the order of a court of competent jurisdiction; when 36391  
the director is to make a payment pursuant to ~~section~~ sections 36392  
3770.071 or 3770.073 of the Revised Code; or as provided in 36393  
sections 3770.10 to 3770.14 of the Revised Code. 36394

~~(b)~~(2) The commission shall adopt rules pursuant to section 36395  
3770.03 of the Revised Code concerning the payment of prize awards 36396  
upon the death of a prize winner. Upon the death of a prize 36397  
winner, as defined in section 3770.10 of the Revised Code, the 36398  
remainder of the prize winner's prize award, to the extent it is 36399  
not subject to a transfer agreement under sections 3770.10 to 36400  
3770.14 of the Revised Code, may be paid to the executor, 36401  
administrator, or trustee in the form of a discounted lump sum 36402  
cash settlement. 36403

~~(5)~~(E) No lottery prize award shall be awarded to or for any 36404  
officer or employee of the state lottery commission, any officer 36405  
or employee of the auditor of state actively coordinating and 36406  
certifying commission drawings, or any blood relative or spouse of 36407

such officer or employee of the commission or auditor of state 36408  
living as a member of such officer's or employee's household, nor 36409  
shall any such employee, blood relative, or spouse attempt to 36410  
claim a lottery prize award. 36411

~~(6)(F)~~ The director may prohibit vendors to the commission 36412  
and their employees from being awarded a lottery prize award. 36413

~~(7)(G)~~ Upon the payment of prize awards pursuant to this 36414  
section, the director and the commission are discharged from all 36415  
further liability therefor. 36416

~~(B)~~ The commission may adopt rules governing the disbursement 36417  
of unclaimed prize awards as all or part of the prize award in a 36418  
lottery and may, pursuant to those rules, conduct the lottery and 36419  
disburse any such unclaimed prize awards. Any lottery in which all 36420  
or any part of the prize award is paid from unclaimed prize awards 36421  
shall be conducted in accordance with all of the other 36422  
requirements of this chapter, including, but not limited to, the 36423  
time and proof requirements for claiming awards and the 36424  
disposition of unclaimed prize awards when the prescribed period 36425  
for claiming the award has passed. A prize award or any part of a 36426  
prize award that is paid from an unclaimed prize award shall not 36427  
be reapplied toward the satisfaction of the requirement of 36428  
division (A) of section 3770.06 of the Revised Code that at least 36429  
fifty per cent of the total revenues from ticket sales be 36430  
disbursed for monetary prize awards, if such unclaimed prize award 36431  
was previously applied toward the satisfaction of that 36432  
requirement. On or before the last day of January and July each 36433  
year, the commission shall report to the general assembly the 36434  
gross sales and net profits the commission obtained from the 36435  
unclaimed prize awards in lotteries conducted pursuant to this 36436  
division during the preceding two calendar quarters, including the 36437  
amount of money produced by the games funded by the unclaimed 36438  
prize awards and the total revenue accruing to the state from the 36439

~~prize award lotteries conducted pursuant to this division.~~ 36440

~~There is hereby established in the state treasury the 36441  
unclaimed lottery prizes fund, to which all unclaimed prize awards 36442  
shall be transferred. Any interest that accrues on the amounts in 36443  
the fund shall become a part of the fund and shall be subject to 36444  
any rules adopted by the commission governing the disbursement of 36445  
unclaimed prize awards.~~ 36446

Sec. 3770.073. (A) If a person is entitled to a lottery prize 36447  
award and is indebted to the state for the payment of any tax, 36448  
workers' compensation premium, unemployment contribution, payment 36449  
in lieu of unemployment contribution, or charge, penalty, or 36450  
interest arising from these debts and the amount of the prize 36451  
money or the cost of goods or services awarded as a lottery prize 36452  
award is five thousand dollars or more, the director of the state 36453  
lottery commission, or the director's designee, shall do either of 36454  
the following: 36455

(1) If the prize award will be paid in a lump sum, deduct 36456  
from the prize award and pay to the attorney general an amount in 36457  
satisfaction of the debt and pay any remainder to that person. If 36458  
the amount of the prize award is less than the amount of the debt, 36459  
the entire amount of the prize award shall be deducted and paid in 36460  
partial satisfaction of the debt. 36461

(2) If the prize award will be paid in annual installments, 36462  
on the date the initial installment payment is due, deduct from 36463  
that installment and pay to the attorney general an amount in 36464  
satisfaction of the debt and, if necessary to collect the full 36465  
amount of the debt, do the same for any subsequent annual 36466  
installments, at the time the installments become due and owing to 36467  
the person, until the debt is fully satisfied. 36468

(B) If a person entitled to a lottery prize award owes more 36469  
than one debt, any debt subject to section 5739.33 or division (G) 36470

of section 5747.07 of the Revised Code shall be satisfied first. 36471

(C) This section applies only to debts that have become 36472  
final. 36473

**Sec. 3770.10.** As used in sections 3770.07 and 3770.10 to 36474  
3770.14 of the Revised Code: 36475

(A) "Court of competent jurisdiction" means the probate court 36476  
of the county in which the prize winner resides, or, if the prize 36477  
winner is not a resident of this state, the probate court of 36478  
Franklin county or a federal court having jurisdiction over the 36479  
lottery prize award. 36480

(B) "Discounted present value" means the present value of the 36481  
future payments of a lottery prize award that is determined by 36482  
discounting those payments to the present, using the most recently 36483  
published applicable federal rate for determining the present 36484  
value of an annuity as issued by the United States internal 36485  
revenue service and assuming daily compounding. 36486

(C) "Independent professional advice" means the advice of an 36487  
attorney, a certified public accountant, an actuary, or any other 36488  
licensed professional adviser if all of the following apply: 36489

(1) The prize winner has engaged the services of the licensed 36490  
professional adviser to render advice concerning the legal and 36491  
other implications of a transfer of the lottery prize award. 36492

(2) The licensed professional adviser is not affiliated in 36493  
any manner with or compensated in any manner by the transferee of 36494  
the lottery prize award. 36495

(3) The compensation of the licensed professional adviser is 36496  
not affected by whether or not a transfer of a lottery prize award 36497  
occurs. 36498

(D) "Prize winner" means any person that holds the right to 36499  
receive all or any part of a lottery prize award as a result of 36500

being any of the following: 36501

(1) A person who is a claimant under division (A)~~(1)~~ of 36502  
section 3770.07 of the Revised Code; 36503

(2) A person who is entitled to a prize award and who is 36504  
under a legal disability as described in division ~~(A)(2)~~(B) of 36505  
section 3770.07 of the Revised Code; 36506

(3) A person who was awarded a prize award to which another 36507  
has claimed title by a court order under division ~~(A)(4)(a)~~(D)(1) 36508  
of section 3770.07 of the Revised Code; 36509

(4) A person who is receiving payments upon the death of a 36510  
prize winner as provided in division ~~(A)(4)(b)~~(D)(2) of section 36511  
3770.07 of the Revised Code. 36512

(E) "Transfer" means any form of sale, assignment, or 36513  
redirection of payment of all or any part of a lottery prize award 36514  
for consideration. 36515

(F) "Transfer agreement" means an agreement that is complete 36516  
and valid, and that provides for the transfer of all or any part 36517  
of a lottery prize award from a transferor to a transferee. A 36518  
transfer agreement is incomplete and invalid unless the agreement 36519  
contains both of the following: 36520

(1) A statement, signed by the transferor under penalties of 36521  
perjury, that the transferor irrevocably agrees that the 36522  
transferor is subject to the tax imposed by Chapter 5733. or 5747. 36523  
of the Revised Code with respect to gain or income which the 36524  
transferor will recognize in connection with the transfer. If the 36525  
transferor is a pass-through entity, as defined in section 5733.04 36526  
of the Revised Code, each investor in the pass-through entity 36527  
shall also sign under penalties of perjury a statement that the 36528  
investor irrevocably agrees that the investor is subject to the 36529  
tax imposed by Chapter 5733. or 5747. of the Revised Code with 36530  
respect to gain or income which the transferor and the investor 36531



will recognize in connection with the transfer. 36532

(2) A statement, signed by the transferee, that the 36533  
transferee irrevocably agrees that the transferee is subject to 36534  
the withholding requirements imposed by division (C) of section 36535  
3770.072 of the Revised Code and is subject to the tax imposed by 36536  
Chapter 5733. or 5747. of the Revised Code with respect to gain or 36537  
income which the transferee will recognize in connection with 36538  
lottery prize awards to be received as a result of the transfer. 36539  
If the transferee is a pass-through entity, as defined in section 36540  
5733.04 of the Revised Code, each investor in the pass-through 36541  
entity shall also sign under penalties of perjury a statement 36542  
setting forth that the investor irrevocably agrees that the 36543  
investor is subject to the withholding requirements imposed by 36544  
division (C) of section 3770.072 of the Revised Code and is 36545  
subject to the tax imposed by Chapter 5733. or 5747. of the 36546  
Revised Code with respect to gain or income which the transferee 36547  
and the investor will recognize in connection with lottery prize 36548  
awards to be received as a result of the transfer. 36549

(G) "Transferee" means a party acquiring or proposing to 36550  
acquire all or any part of a lottery prize award through a 36551  
transfer. 36552

(H) "Transferor" means either a prize winner or a transferee 36553  
in an earlier transfer whose interest is acquired by or is sought 36554  
to be acquired by a transferee or a new transferee through a 36555  
transfer. 36556

**Sec. 3770.99.** (A) Whoever is prohibited from claiming a 36557  
lottery prize award under division ~~(A)(5)(E)~~ of section 3770.07 of 36558  
the Revised Code and attempts to claim or is paid a lottery prize 36559  
award is guilty of a minor misdemeanor, and shall provide 36560  
restitution to the state lottery commission of any moneys 36561  
erroneously paid as a lottery prize award to that person. 36562

(B) Whoever violates division (C) of section 3770.071 or 36563  
section 3770.08 of the Revised Code is guilty of a misdemeanor of 36564  
the third degree. 36565

**Sec. 3773.33.** (A) There is hereby created the Ohio athletic 36566  
commission. The commission shall consist of five voting members 36567  
appointed by the governor with the advice and consent of the 36568  
senate, not more than three of whom shall be of the same political 36569  
party, and two nonvoting members, one of whom shall be a member of 36570  
the senate appointed by and to serve at the pleasure of the 36571  
president of the senate and one of whom shall be a member of the 36572  
house of representatives appointed by and to serve at the pleasure 36573  
of the speaker of the house of representatives. To be eligible for 36574  
appointment as a voting member, a person shall be a qualified 36575  
elector and a resident of the state for not less than five years 36576  
immediately preceding the person's appointment. Two voting members 36577  
shall be knowledgeable in boxing, at least one voting member shall 36578  
be knowledgeable and experienced in high school athletics, one 36579  
voting member shall be knowledgeable and experienced in 36580  
professional athletics, and at least one voting member shall be 36581  
knowledgeable and experienced in collegiate athletics. One 36582  
commission member shall hold the degree of doctor of medicine or 36583  
doctor of osteopathy. 36584

(B) No person shall be appointed to the commission or be an 36585  
employee of the commission who is licensed, registered, or 36586  
regulated by the commission. No member shall have any legal or 36587  
beneficial interest, direct or indirect, pecuniary or otherwise, 36588  
in any person who is licensed, registered, or regulated by the 36589  
commission or who participates in prize fights or public boxing or 36590  
wrestling matches or exhibitions. No member shall participate in 36591  
any fight, match, or exhibition other than in the member's 36592  
official capacity as a member of the commission, or as an 36593

inspector as authorized in section 3773.52 of the Revised Code. 36594

(C) The governor shall appoint the voting members to the 36595  
commission. Of the initial appointments, two shall be for terms 36596  
ending one year after September 3, 1996, two shall be for terms 36597  
ending two years after September 3, 1996, and one shall be for a 36598  
term ending three years after September 3, 1996. Thereafter, terms 36599  
of office shall be for three years, each term ending the same day 36600  
of the same month of the year as did the term which it succeeds. 36601  
Each member shall hold office from the date of the member's 36602  
appointment until the end of the term for which the member was 36603  
appointed. Any member appointed to fill a vacancy occurring prior 36604  
to the expiration of the term for which the member's predecessor 36605  
was appointed shall hold office for the remainder of the term. Any 36606  
member shall continue in office subsequent to the expiration date 36607  
of the member's term until the member's successor takes office, or 36608  
until a period of sixty days has elapsed, whichever occurs first. 36609

The governor shall name one voting member as chairperson of 36610  
the commission at the time of making the appointment of any member 36611  
for a full term. Three voting members shall constitute a quorum, 36612  
and the affirmative vote of three voting members shall be 36613  
necessary for any action taken by the commission. No vacancy on 36614  
the commission impairs the authority of the remaining members to 36615  
exercise all powers of the commission. 36616

Voting members, when engaged in commission duties, shall 36617  
receive a per diem compensation determined in accordance with 36618  
division (J) of section 124.15 of the Revised Code, and all 36619  
members shall receive their actual and necessary expenses incurred 36620  
in the performance of their official duties. 36621

Each voting member, before entering upon the discharge of the 36622  
member's duties, shall file a surety bond payable to the treasurer 36623  
of state in the sum of ten thousand dollars. Each surety bond 36624  
shall be conditioned upon the faithful performance of the duties 36625

of the office, executed by a surety company authorized to transact 36626  
business in this state, and filed in the office of the secretary 36627  
of state. 36628

The governor may remove any voting member for malfeasance, 36629  
misfeasance, or nonfeasance in office after giving the member a 36630  
copy of the charges against the member and affording the member an 36631  
opportunity for a public hearing, at which the member may be 36632  
represented by counsel, upon not less than ten days' notice. If 36633  
the member is removed, the governor shall file a complete 36634  
statement of all charges made against the member and the 36635  
governor's finding ~~thereon~~ on the charges in the office of the 36636  
secretary of state, together with a complete report of the 36637  
proceedings. The governor's decision shall be final. 36638

~~(D) The commission shall maintain an office in Youngstown and 36639  
keep all of its permanent records there. 36640~~

**Sec. 3773.43.** The Ohio athletic commission shall charge the 36641  
following fees: 36642

(A) For an application for or renewal of a promoter's license 36643  
for public boxing matches or exhibitions, ~~fifty~~ one hundred 36644  
dollars. 36645

(B) For an application for or renewal of a license to 36646  
participate in a public boxing match or exhibition as a 36647  
contestant, or as a referee, judge, matchmaker, manager, 36648  
timekeeper, trainer, or second of a contestant, ~~ten~~ twenty 36649  
dollars. 36650

(C) For a permit to conduct a public boxing match or 36651  
exhibition, ~~ten~~ fifty dollars. 36652

(D) For an application for or renewal of a promoter's license 36653  
for professional wrestling matches or exhibitions, ~~one~~ two hundred 36654  
dollars. 36655

(E) For a permit to conduct a professional wrestling match or exhibition, ~~forty~~ one hundred dollars. 36656  
36657

The commission, subject to the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that such fees do not exceed the amounts permitted by this section by more than ~~twenty-five~~ fifty per cent. 36658  
36659  
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The fees prescribed by this section shall be paid to the treasurer of state, who shall deposit the fees in the occupational licensing and regulatory fund. 36662  
36663  
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**Sec. 3781.19.** There is hereby established in the department of commerce a board of building appeals consisting of five members who shall be appointed by the governor with the advice and consent of the senate. Terms of office shall be for four years, commencing on the fourteenth day of October and ending on the thirteenth day of October. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ a successor takes office, or until a period of sixty days has elapsed, whichever occurs first. One member shall be an attorney-at-law, admitted to the bar of this state and of the remaining members, one shall be a registered architect and one shall be a professional engineer, each of whom shall be duly licensed to practice their respective professions in this state, one shall be a fire prevention officer qualified under section 3737.66 of the Revised Code, and one shall be a person with recognized ability in the plumbing or pipefitting profession. No member of the board of building standards shall be a member of the board of building 36665  
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appeals. Each member shall be paid an amount fixed pursuant to 36687  
Chapter 124. of the Revised Code per diem. The department shall 36688  
provide and assign to the board such employees as are required by 36689  
the board to perform its functions. The board may adopt its own 36690  
rules of procedure not inconsistent with sections 3781.06 to 36691  
3781.18 and 3791.04 of the Revised Code, and may change them in 36692  
its discretion. The board may establish reasonable fees, based on 36693  
actual costs for administration of filing and processing, not to 36694  
exceed ~~one~~ two hundred dollars, for the costs of filing and 36695  
processing appeals. A full and complete record of all proceedings 36696  
of the board shall be kept and be open to public inspection. 36697

In the enforcement by any department of the state or any 36698  
political subdivision of this chapter and Chapter 3791., and 36699  
sections 3737.41, 3737.42, 4104.02, 4104.06, 4104.44, 4104.45, 36700  
4105.011, and 4105.11 of the Revised Code and any rule made 36701  
thereunder, such department is the agency referred to in sections 36702  
119.07, 119.08, and 119.10 of the Revised Code. 36703

The appropriate municipal or county board of appeals, where 36704  
one exists, certified pursuant to section 3781.20 of the Revised 36705  
Code shall conduct the adjudication hearing referred to in 36706  
sections 119.09 to 119.13 and required by section 3781.031 of the 36707  
Revised Code. If there is no certified municipal or county board 36708  
of appeals, the board of building appeals shall conduct the 36709  
adjudication hearing. If the adjudication hearing concerns section 36710  
3781.111 of the Revised Code or any rule made thereunder, 36711  
reasonable notice of the time, date, place, and subject of the 36712  
hearing shall be given to any local corporation, association, or 36713  
other organization composed of or representing handicapped 36714  
persons, as defined in section 3781.111 of the Revised Code, or if 36715  
there is no local organization, then to any statewide corporation, 36716  
association, or other organization composed of or representing 36717  
handicapped persons. 36718

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 state board, or may appeal directly to the court of common pleas pursuant to section 3781.031 of the Revised Code.

In addition, 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 no local corporation, association, or organization exists, then any statewide corporation, association, or other organization composed of or representing handicapped persons may apply for the de novo hearing or appeal to the court of common pleas from any decision of a certified municipal or county board of appeals interpreting, applying, or granting a variance from section 3781.111 of the Revised Code and any rule made thereunder. Application for a de novo hearing before the state board shall be made no later than

thirty days after the municipal or county board renders its decision. 36751  
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The state board of building appeals or the appropriate certified local board of building appeals shall grant variances and exemptions from the requirements of section 3781.108 of the Revised Code in accordance with rules adopted by the board of building standards pursuant to division (J) of section 3781.10 of the Revised Code. 36753  
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The state board of building appeals or the appropriate certified local board of building appeals shall, in granting a variance or exemption from section 3781.108 of the Revised Code, in addition to any other considerations the state or the appropriate local board determines appropriate, consider the architectural and historical significance of the building. 36759  
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**Sec. 3901.491.** (A) As used in this section: 36765

(1) "Genetic screening or testing" means a laboratory test of a person's genes or chromosomes for abnormalities, defects, or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a susceptibility to illness, disease, or other disorders, whether physical or mental, which test is a direct test for abnormalities, defects, or deficiencies, and not an indirect manifestation of genetic disorders. 36766  
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(2) "Insurer" means any person authorized under Title XXXIX of the Revised Code to engage in the business of sickness and accident insurance. 36774  
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(3) "Sickness and accident insurance" means sickness and accident insurance under Chapter 3923. of the Revised Code excluding disability income insurance and excluding supplemental policies of sickness and accident insurance. 36777  
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(B) Upon the repeal of section 3901.49 of the Revised Code by ~~Sub. H.B. No. 71 of the 120th general assembly~~, no insurer shall do either of the following:

(1) Consider any information obtained from genetic screening or testing in processing an application for an individual or group policy of sickness and accident insurance, or in determining insurability under such a policy;

(2) Inquire, directly or indirectly, into the results of genetic screening or testing or use such information, in whole or in part, to cancel, refuse to issue or renew, or limit benefits under, a sickness and accident insurance policy.

(C) Any insurer that has engaged in, is engaged in, or is about to engage in a violation of division (B) of this section is subject to the jurisdiction of the superintendent of insurance under section 3901.04 of the Revised Code.

**Sec. 3901.501.** (A) As used in this section:

(1) "Genetic screening or testing" means a laboratory test of a person's genes or chromosomes for abnormalities, defects, or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a susceptibility to illness, disease, or other disorders, whether physical or mental, which test is a direct test for abnormalities, defects, or deficiencies, and not an indirect manifestation of genetic disorders.

(2) "Self-insurer" means any government entity providing coverage for health care services on a self-insurance basis.

(B) Upon the repeal of section 3901.50 of the Revised Code by ~~Sub. H.B. No. 71 of the 120th general assembly~~, no self-insurer shall do either of the following:

(1) Consider any information obtained from genetic screening

or testing in processing an application for coverage under a plan 36811  
of self-insurance or in determining insurability under such a 36812  
plan; 36813

(2) Inquire, directly or indirectly, into the results of 36814  
genetic screening or testing or use such information, in whole or 36815  
in part, to cancel, refuse to provide or renew, or limit benefits 36816  
under, a plan of self-insurance. 36817

(C) Any self-insurer that has engaged in, is engaged in, or 36818  
is about to engage in a violation of division (B) of this section 36819  
is subject to the jurisdiction of the superintendent of insurance 36820  
under section 3901.04 of the Revised Code. 36821

**Sec. 4104.01.** As used in sections 4104.01 to 4104.20 and 36822  
section 4104.99 of the Revised Code: 36823

(A) "Board of building standards" or "board" means the board 36824  
established by section 3781.07 of the Revised Code. 36825

(B) "Superintendent" means the superintendent of the division 36826  
of industrial compliance created by section 121.04 of the Revised 36827  
Code. 36828

(C) "Boiler" means a closed vessel in which water is heated, 36829  
steam is generated, steam is superheated, or any combination 36830  
thereof, under pressure or vacuum for use externally to itself by 36831  
the direct application of heat from the combustion of fuels, or 36832  
from electricity or nuclear energy. "Boiler" includes fired units 36833  
for heating or vaporizing liquids other than water where these 36834  
units are separate from processing systems and are complete within 36835  
themselves. 36836

(D) "Power boiler" means a boiler in which steam or other 36837  
vapor (to be used externally to itself) is generated at a pressure 36838  
of more than fifteen psig. 36839

(E) "High pressure, high temperature water boiler" means a 36840

water heating boiler operating at pressures exceeding one hundred 36841  
sixty psig or temperatures exceeding two hundred fifty degrees 36842  
Fahrenheit. 36843

(F) "Low pressure boiler" means a steam boiler operating at 36844  
pressures not exceeding fifteen psig, or a hot water heating 36845  
boiler operating at pressures not exceeding one hundred sixty psig 36846  
or temperatures not exceeding two hundred fifty degrees 36847  
Fahrenheit. 36848

(G) "~~Unfired pressure~~ Pressure vessel" means a container for 36849  
the containment of pressure, either internal or external. This 36850  
pressure may be obtained from an external source or by the 36851  
application of heat from a direct or indirect source or any 36852  
combination thereof. 36853

(H) "Process boiler" means a boiler to which all of the 36854  
following apply: 36855

(1) The steam in the boiler is either generated or 36856  
superheated, or both, under pressure or vacuum for use external to 36857  
itself. 36858

(2) The source of heat for the boiler is in part or in whole 36859  
from a process other than the boiler itself. 36860

(3) The boiler is part of a continuous processing unit, such 36861  
as used in chemical manufacture or petroleum refining, other than 36862  
a steam-generated process unit. 36863

(I) "Stationary steam engine" means an engine or turbine in 36864  
which the mechanical force arising from the elasticity and 36865  
expansion action of steam or from its property of rapid 36866  
condensation or from a combination of the two is made available as 36867  
a motive power. 36868

**Sec. 4104.02.** The board of building standards shall: 36869

(A) Formulate rules for the construction, installation, 36870

~~inspection~~, repair, conservation of energy, and operation of 36871  
boilers and the construction, ~~inspection~~, and repair of ~~unfired~~ 36872  
pressure vessels and for ascertaining the safe working pressures 36873  
to be carried on such boilers and ~~unfired~~ pressure vessels and the 36874  
qualification of inspectors of boilers and ~~unfired~~ pressure 36875  
vessels; 36876

(B) Prescribe tests, if it is considered necessary, to 36877  
ascertain the qualities of materials used in the construction of 36878  
boilers and ~~unfired~~ pressure vessels; 36879

(C) Adopt rules regulating the construction and sizes of 36880  
safety valves for boilers and ~~unfired~~ pressure vessels of 36881  
different sizes and pressures, for the construction, use, and 36882  
location of fusible plugs, appliances for indicating the pressure 36883  
of steam and level of water in the boiler or ~~unfired~~ pressure 36884  
vessels, and such other appliances as the board considers 36885  
necessary to safety in operating boilers; 36886

(D) Establish reasonable fees for the performance of reviews, 36887  
surveys, or audits of manufacturer's facilities by the division of 36888  
industrial compliance for certification by the American society of 36889  
mechanical engineers and the national board of boiler and pressure 36890  
vessel inspectors; 36891

(E) The definitions and rules adopted by the board for the 36892  
construction, installation, ~~inspection~~, repair, conservation of 36893  
energy, and operation of boilers and the construction, ~~inspection~~, 36894  
and repair of ~~unfired~~ pressure vessels and for ascertaining the 36895  
safe working pressures to be used on such boilers and ~~unfired~~ 36896  
pressure vessels shall be based upon and follow generally accepted 36897  
engineering standards, formulae, and practices established and 36898  
pertaining to boilers and ~~unfired~~ pressure vessel construction, 36899  
operation, and safety, and the board may, for this purpose, adopt 36900  
existing published standards as well as amendments thereto 36901  
subsequently published by the same authority. 36902

When a person desires to manufacture a special type of boiler 36903  
or ~~unfired~~ pressure vessel, the design of which is not covered by 36904  
the rules of the board, the person shall submit drawings and 36905  
specifications of such boiler or ~~unfired~~ pressure vessel to the 36906  
board for investigation, after which the board may permit its 36907  
installation. 36908

The provisions of sections 119.03 and 119.11 of the Revised 36909  
Code in particular, and the applicable provisions of Chapter 119. 36910  
of the Revised Code in general, shall govern the proceedings of 36911  
the board of building standards in adopting, amending, or 36912  
rescinding rules pursuant to this section. 36913

**Sec. 4104.04.** (A) Sections 4104.01 to 4104.20 and section 36914  
4104.99 of the Revised Code do not apply to the following boilers 36915  
and ~~unfired~~ pressure vessels: 36916

(1) Boilers, ~~unfired~~ pressure vessels, and stationary steam 36917  
engines under federal control or subject to inspection under 36918  
federal laws; 36919

(2) Air tanks located on vehicles operating under the rules 36920  
of other state authorities and used for carrying passengers, or 36921  
freight; 36922

(3) Air tanks installed on the right of way of railroads and 36923  
used directly in the operation of trains; 36924

(4) ~~Unfired pressure~~ Pressure vessels ~~which that~~ are under 36925  
the regulation and control of the state fire marshal under Chapter 36926  
3737. of the Revised Code. 36927

(B) The following boilers and ~~unfired~~ pressure vessels are 36928  
exempt from the requirements of sections 4104.10, 4104.101, 36929  
4104.11, 4104.12, and 4104.13 of the Revised Code, but shall be 36930  
equipped with such appliances, to insure safety of operation, as 36931  
are prescribed by the board: 36932

(1) Portable boilers or <del>unfired</del> pressure vessels when located on farms and used solely for agricultural purposes;	36933 36934
(2) Steam or vapor boilers carrying a pressure of not more than fifteen psig, which are located in private residences or in apartment houses of less than six family units;	36935 36936 36937
(3) Hot water boilers operated at pressures not exceeding one hundred sixty psig, or temperatures not exceeding two hundred fifty degrees fahrenheit, which are located in private residences or in apartment houses of less than six family units;	36938 36939 36940 36941
(4) <del>Unfired pressure</del> <u>Pressure</u> vessels containing only water under pressure for domestic supply purposes, including those containing air, the compression of which serves only as a cushion or airlift pumping system, when located in private residences or in apartment houses of less than six family units;	36942 36943 36944 36945 36946
(5) Portable boilers used in pumping, heating, steaming, and drilling, in the open field, for water, gas, and oil;	36947 36948
(6) Portable boilers used in the construction of and repair to public roads, railroads, and bridges;	36949 36950
(7) Historical steam boilers of riveted construction, preserved, restored, or maintained for hobby or demonstration use.	36951 36952
<b>Sec. 4104.06.</b> (A) The inspection of boilers and their appurtenances and <del>unfired</del> pressure vessels shall be made by the inspectors mentioned in sections 4104.07 to 4104.20 of the Revised Code. The superintendent of industrial compliance shall administer and enforce such sections and rules adopted by the board of building standards pursuant to section 4104.02 of the Revised Code.	36953 36954 36955 36956 36957 36958 36959
(B) The superintendent shall adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for	36960 36961 36962

conducting hearings in accordance with Chapter 119. of the Revised Code related to these actions, and for the inspection of boilers and their appurtenances, and ~~unfired~~ pressure vessels.

(C) Notwithstanding division (B) of this section, the superintendent shall not adopt rules relating to construction, maintenance, or repair of boilers and their appurtenances, or repair of ~~unfired~~ pressure vessels.

(D) The superintendent and each general inspector may enter any premises and any building or room at all reasonable hours to perform an examination or inspection.

**Sec. 4104.07.** (A) An application for examination as an inspector of boilers and ~~unfired~~ pressure vessels shall be in writing, accompanied by a fee of fifty dollars, upon a blank to be furnished by the superintendent of industrial compliance. 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.

(B) The superintendent shall determine if an applicant meets all the requirements for examination in accordance with rules adopted by the board of building standards under section 4104.02 of the Revised Code. An application shall be rejected which contains any willful falsification, or untruthful statements.

(C) An applicant shall be examined by the superintendent, by a written examination, prescribed by the board, dealing with the construction, installation, operation, maintenance, and repair of boilers and ~~unfired~~ pressure vessels and their appurtenances, and the applicant shall be accepted or rejected on the merits of the applicant's application and examination.

(D) Upon a favorable report by the superintendent of the result of an examination, the superintendent shall immediately

issue to the successful applicant a certificate of competency to 36993  
that effect. 36994

**Sec. 4104.08.** (A) The director of commerce may appoint from 36995  
the holders of certificates of competency provided for in section 36996  
4104.07 of the Revised Code, general inspectors of boilers and 36997  
~~unfired~~ pressure vessels. 36998

(B) Any company authorized to insure boilers and ~~unfired~~ 36999  
pressure vessels against explosion in this state may designate 37000  
from holders of certificates of competency issued by the 37001  
superintendent of industrial compliance, or holders of 37002  
certificates of competency or commissions issued by other states 37003  
or nations whose examinations for certificates or commissions have 37004  
been approved by the board of building standards, persons to 37005  
inspect and stamp boilers and ~~unfired~~ pressure vessels covered by 37006  
the company's policies, and the superintendent shall issue to such 37007  
persons commissions authorizing them to act as special inspectors. 37008  
Special inspectors shall be compensated by the company designating 37009  
them. 37010

(C) The director of commerce shall establish an annual fee to 37011  
be charged by the superintendent for each certificate of 37012  
competency or commission the superintendent issues. 37013

(D) The superintendent shall issue to each general or special 37014  
inspector a commission to the effect that the holder thereof is 37015  
authorized to inspect boilers and ~~unfired~~ pressure vessels in this 37016  
state. 37017

(E) No person shall be authorized to act as a general 37018  
inspector or a special inspector who is directly or indirectly 37019  
interested in the manufacture or sale of boilers or ~~unfired~~ 37020  
pressure vessels. 37021

**Sec. 4104.15.** (A) All certificates of inspection for boilers, 37022



issued prior to October 15, 1965, are valid and effective for the 37023  
period set forth in such certificates unless sooner withdrawn by 37024  
the superintendent of industrial compliance. The owner or user of 37025  
any such boiler shall obtain an appropriate certificate of 37026  
operation for such boiler, and shall not operate such boiler, or 37027  
permit it to be operated unless a certificate of operation has 37028  
been obtained in accordance with section 4104.17 of the Revised 37029  
Code. 37030

(B) If, upon making the internal and external inspection 37031  
required under sections 4104.11, 4104.12, and 4104.13 of the 37032  
Revised Code, the inspector finds the boiler to be in safe working 37033  
order, with the fittings necessary to safety, and properly set up, 37034  
upon the inspector's report to the superintendent, the 37035  
superintendent shall issue to the owner or user thereof, or renew, 37036  
upon application and upon compliance with sections 4104.17 and 37037  
4104.18 of the Revised Code, a certificate of operation which 37038  
shall state the maximum pressure at which the boiler may be 37039  
operated, as ascertained by the rules of the board of building 37040  
standards. Such certificates shall also state the name of the 37041  
owner or user, the location, size, and number of each boiler, and 37042  
the date of issuance, and shall be so placed as to be easily read 37043  
in the engine room or boiler room of the plant where the boiler is 37044  
located, except that the certificate of operation for a portable 37045  
boiler shall be kept on the premises and shall be accessible at 37046  
all times. 37047

(C) If an inspector at any inspection finds that the boiler 37048  
or ~~unfired~~ pressure vessel is not in safe working condition, or is 37049  
not provided with the fittings necessary to safety, or if the 37050  
fittings are improperly arranged, the inspector shall immediately 37051  
notify the owner or user and person in charge of the boiler and 37052  
shall report the same to the superintendent who may revoke, 37053  
suspend, or deny the certificate of operation and not renew the 37054

same until the boiler or ~~unfired~~ pressure vessel and its fittings 37055  
are put in condition to insure safety of operation, and the owner 37056  
or user shall not operate the boiler or ~~unfired~~ pressure vessel, 37057  
or permit it to be operated until such certificate has been 37058  
granted or restored. 37059

(D) If the superintendent or a general boiler inspector finds 37060  
that ~~an unfired~~ a pressure vessel or boiler or a part thereof 37061  
poses an explosion hazard that reasonably can be regarded as 37062  
posing an imminent danger of death or serious physical harm to 37063  
persons, the superintendent or the general boiler inspector shall 37064  
seal the ~~unfired~~ pressure vessel or boiler and order, in writing, 37065  
the operator or owner of the ~~unfired~~ pressure vessel or boiler to 37066  
immediately cease the ~~unfired~~ pressure vessel's or boiler's 37067  
operation. The order shall be effective until the nonconformities 37068  
are eliminated, corrected, or otherwise remedied, or for a period 37069  
of seventy-two hours from the time of issuance, whichever occurs 37070  
first. During the seventy-two-hour period, the superintendent may 37071  
request that the prosecuting attorney or city attorney of Franklin 37072  
county or of the county in which the ~~unfired~~ pressure vessel or 37073  
boiler is located obtain an injunction restraining the operator or 37074  
owner of the ~~unfired~~ pressure vessel or boiler from continuing its 37075  
operation after the seventy-two-hour period expires until the 37076  
nonconformities are eliminated, corrected, or otherwise remedied. 37077

(E) Each boiler which has been inspected shall be assigned a 37078  
number by the superintendent, which number shall be stamped on a 37079  
nonferrous metal tag affixed to the boiler or its fittings by seal 37080  
or otherwise. No person except an inspector shall deface or remove 37081  
any such number or tag. 37082

(F) If the owner or user of any ~~unfired~~ pressure vessel or 37083  
boiler disagrees with the inspector as to the necessity for 37084  
shutting down ~~an unfired~~ a pressure vessel or boiler or for making 37085  
repairs or alterations in it, or taking any other measures for 37086

safety that are requested by an inspector, the owner or user may 37087  
appeal from the decision of the inspector to the superintendent, 37088  
who may, after such other inspection by a general inspector or 37089  
special inspector as the superintendent deems necessary, decide 37090  
the issue. 37091

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, 37092  
nor an inspection or report by any inspector, shall relieve the 37093  
owner or user of ~~an unfired~~ a pressure vessel or boiler of the 37094  
duty of using due care in the inspection, operation, and repair of 37095  
the ~~unfired~~ pressure vessel or boiler or of any liability for 37096  
damages for failure to inspect, repair, or operate the ~~unfired~~ 37097  
pressure vessel or boiler safely. 37098

**Sec. 4104.18.** (A) The owner or user of a boiler required 37099  
under section 4104.12 of the Revised Code to be inspected upon 37100  
installation, and the owner or user of a boiler for which a 37101  
certificate of inspection has been issued which is replaced with 37102  
an appropriate certificate of operation, shall pay to the 37103  
superintendent of industrial compliance a fee in the amount of 37104  
~~thirty~~ forty-five dollars for boilers subject to annual 37105  
inspections under section 4104.11 of the Revised Code, ~~sixty~~ 37106  
ninety dollars for boilers subject to biennial inspection under 37107  
section 4104.13 of the Revised Code, ~~ninety one hundred~~ 37108  
thirty-five dollars for boilers subject to triennial inspection 37109  
under section 4104.11 of the Revised Code, or ~~one two~~ hundred 37110  
~~fifty~~ twenty-five dollars for boilers subject to quinquennial 37111  
inspection under section 4104.13 of the Revised Code. 37112

A renewal fee in the amount of ~~thirty~~ forty-five dollars 37113  
shall be paid to the treasurer of state before the renewal of any 37114  
certificate of operation. 37115

(B) The fee for complete inspection during construction by a 37116  
general inspector on boilers and ~~unfired~~ pressure vessels 37117

manufactured within the state shall be thirty-five dollars per 37118  
hour. Boiler and unfired pressure vessel manufacturers other than 37119  
those located in the state may secure inspection by a general 37120  
inspector on work during construction, upon application to the 37121  
superintendent, and upon payment of a fee of thirty-five dollars 37122  
per hour, plus the necessary traveling and hotel expenses incurred 37123  
by the inspector. 37124

(C) The application fee for applicants for steam engineer, 37125  
high pressure boiler operator, or low pressure boiler operator 37126  
licenses is fifty dollars. The fee for each original or renewal 37127  
steam engineer, high pressure boiler operator, or low pressure 37128  
boiler operator license is thirty-five dollars. 37129

(D) The director of commerce, subject to the approval of the 37130  
controlling board, may establish fees in excess of the fees 37131  
provided in divisions (A), (B), and (C) of this section, ~~provided~~ 37132  
~~that such fees do not exceed the amounts established in this~~ 37133  
~~section by more than fifty per cent.~~ Any moneys collected under 37134  
this section shall be paid into the state treasury to the credit 37135  
of the industrial compliance operating fund created in section 37136  
121.084 of the Revised Code. 37137

(E) Any person who fails to pay an invoiced renewal fee or an 37138  
invoiced inspection fee required for any inspection conducted by 37139  
the division of industrial compliance pursuant to this chapter 37140  
within forty-five days of the invoice date shall pay a late 37141  
payment fee equal to twenty-five per cent of the invoiced fee. 37142

(F) In addition to the fees assessed in divisions (A) and (B) 37143  
of this section, the board of building standards shall assess the 37144  
owner or user a fee of three dollars and twenty-five cents for 37145  
each certificate of operation or renewal thereof issued under 37146  
division (A) of this section and for each inspection conducted 37147  
under division (B) of this section. The board shall adopt rules, 37148  
in accordance with Chapter 119. of the Revised Code, specifying 37149

the manner by which the superintendent shall collect and remit to 37150  
the board the fees assessed under this division and requiring that 37151  
remittance of the fees be made at least quarterly. 37152

**Sec. 4104.19.** (A) Any person seeking a license to operate as 37153  
a steam engineer, high pressure boiler operator, or low pressure 37154  
boiler operator shall file a written application with the 37155  
superintendent of industrial compliance on a form prescribed by 37156  
the superintendent with the appropriate application fee as set 37157  
forth in section 4104.18 of the Revised Code. The application 37158  
shall contain information satisfactory to the superintendent to 37159  
demonstrate that the applicant meets the requirements of division 37160  
(B) of this section. The application shall be filed with the 37161  
superintendent not more than sixty days and not less than thirty 37162  
days before the license examination is offered. 37163

(B) To qualify to take the examination required to obtain a 37164  
steam engineer, high pressure boiler operator, or low pressure 37165  
boiler operator license, a person shall meet both of the following 37166  
requirements: 37167

(1) Be at least eighteen years of age; 37168

(2) Have one year of experience in the operation of steam 37169  
engines, high pressure boilers, or low pressure boilers as 37170  
applicable to the type of license being sought, or a combination 37171  
of experience and education for the type of license sought as 37172  
determined to be acceptable by the superintendent. 37173

(C) No applicant shall qualify to take an examination or to 37174  
renew a license if the applicant has violated this chapter or if 37175  
the applicant has obtained or renewed a license issued under this 37176  
chapter by fraud, misrepresentation, or deception. 37177

(D) The superintendent shall issue a license to each 37178  
applicant who receives a passing score on the examination, as 37179

determined by the superintendent, for the license for which the applicant applied. 37180  
37181

(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: 37182  
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(1) Prepare, administer, score, and maintain the confidentiality of the examination; 37186  
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(2) Maintain responsibility for all expenses required to fulfill division (E)(1) of this section; 37188  
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(3) Charge each applicant a fee for administering the examination, in an amount authorized by the superintendent; 37190  
37191

(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. 37192  
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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 to the superintendent not more than ninety days before the expiration of the license, and submitting with the application the renewal fee established in section 4104.18 of the Revised Code. Upon receipt of the renewal information and fee, the superintendent shall issue the licensee a certificate of renewal. 37195  
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(G) The superintendent, in accordance with Chapter 119. of the Revised Code, may suspend or revoke any license, or may refuse to issue a license under this chapter upon finding that a licensee or an applicant for a license has violated or is violating the requirements of this chapter. 37203  
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**Sec. 4104.20.** No owner or operator of any boiler shall operate the same in violation of sections 4104.11 to 4104.16, 37208  
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inclusive, and 4104.18 of the Revised Code, or of any rule or 37210  
regulation adopted by the board of building standards, pursuant to 37211  
section 4104.02 of the Revised Code, or without having a boiler 37212  
inspected and a certificate of operation issued therefor as 37213  
provided in such sections or hinder or prevent a general or 37214  
special inspector of boilers from entering any premises in or on 37215  
which a boiler is situated for the purpose of inspection. No owner 37216  
or operator of any unfired pressure vessel shall operate the same 37217  
in violation of section 4104.10 of the Revised Code, or of any 37218  
rule or regulation adopted by the board of building standards, 37219  
pursuant to section 4104.02 of the Revised Code. 37220

**Sec. 4104.41.** ~~(A)~~ As used in sections 4104.41 to ~~4104.45~~ 37221  
4104.48 of the Revised Code: 37222

~~(1)~~(A) "Liquefied petroleum gas" means any material which is 37223  
composed predominantly of any of the following hydrocarbons, or 37224  
mixtures of the same: propane, propylene, normal butane, or 37225  
isobutane or butylenes. 37226

~~(2)~~(B) "Other gaseous piping systems" excludes natural gas 37227  
piping gas systems. 37228

~~(B)~~ ~~The director of commerce shall appoint general inspectors~~ 37229  
~~of power, refrigerating, hydraulic, heating, and liquefied~~ 37230  
~~petroleum gas piping systems. Such inspectors shall be appointed~~ 37231  
~~from holders of certificates of competency provided for in section~~ 37232  
~~4104.42 of the Revised Code.~~ 37233

~~Salaries shall be appropriated in the same manner as the~~ 37234  
~~salaries of other employees of state departments, and expenses of~~ 37235  
~~such general inspectors shall be provided for in the same manner~~ 37236  
~~as the expenses of other employees of state departments.~~ 37237

**Sec. 4104.42.** (A) Each manufacturer, contractor, owner, or 37238  
user of power, refrigerating, hydraulic, heating and liquefied 37239

petroleum gas, oxygen, or other gaseous piping systems shall 37240  
conduct tests required under rules adopted by the board of 37241  
building standards under division (A)(1) of section 4104.44 of the 37242  
Revised Code and certify in writing on forms provided under 37243  
section 4104.43 of the Revised Code by the superintendent of 37244  
industrial compliance in the department of commerce that the 37245  
welding and brazing procedures used in the construction of those 37246  
power, refrigerating, hydraulic, heating and liquefied petroleum 37247  
gas, oxygen, or other gaseous piping systems meet the standards 37248  
established by the board under division (A)(1) of section 4104.44 37249  
of the Revised Code. 37250

(B) Each manufacturer, contractor, owner, or user of power, 37251  
refrigerating, hydraulic, heating and liquefied petroleum gas, 37252  
oxygen, or other gaseous piping systems who causes welding or 37253  
brazing to be performed in the construction of power, 37254  
refrigerating, hydraulic, heating and liquefied petroleum gas, 37255  
oxygen, or other gaseous piping systems shall maintain at least 37256  
one copy of the forms described in division (A) of this section 37257  
and make that copy accessible to any individual certified by the 37258  
board of building standards pursuant to division (E) of section 37259  
3781.10 of the Revised Code. 37260

(C) An individual certified by the board of building 37261  
standards pursuant to division (E) of section 3781.10 of the 37262  
Revised Code shall examine the forms described in division (A) of 37263  
this section to determine compliance with the rules adopted by the 37264  
board of building standards under division (A)(1) of section 37265  
4104.44 of the Revised Code. 37266

(D) An individual certified by the board of building 37267  
standards pursuant to division (E) of section 3781.10 of the 37268  
Revised Code with reason to question the certification or ability 37269  
of any welder or brazer shall report the concerns to the 37270  
superintendent of the division of industrial compliance in the 37271



department of commerce. The superintendent shall investigate those 37272  
concerns. If the superintendent finds facts that substantiate the 37273  
concerns of the individual certified by the board of building 37274  
standards pursuant to division (E) of section 3781.10 of the 37275  
Revised Code, the superintendent may require the welder or brazer 37276  
in question to become recertified by a private vendor in the same 37277  
manner by which five-year recertification is required under 37278  
section 4104.46 of the Revised Code. The superintendent also may 37279  
utilize the services of an independent testing laboratory to 37280  
witness the welding or brazing performed on the project in 37281  
question and to conduct tests on coupons to determine whether the 37282  
coupons meet the requirements of the rules adopted by the board of 37283  
building standards under division (A)(1) of section 4104.44 of the 37284  
Revised Code. 37285

**Sec. 4104.43.** (A) Each manufacturer, contractor, owner, or 37286  
user of power, refrigerating, hydraulic, heating and liquefied 37287  
petroleum gas, oxygen, or other gaseous piping systems who causes 37288  
welding or brazing to be performed in the construction of a power, 37289  
refrigerating, hydraulic, heating and liquefied petroleum gas, 37290  
oxygen, or other gaseous piping system shall file with the 37291  
superintendent of the division of industrial compliance two 37292  
complete copies of forms provided by the superintendent that 37293  
identify the welding and brazing procedure specifications and 37294  
welder and brazer performance qualifications performed in the 37295  
construction of that power, refrigerating, hydraulic, heating and 37296  
liquefied petroleum gas, oxygen, or other gaseous piping system. 37297

(B)(1) Upon receipt of the forms filed under division (A) of 37298  
this section, the superintendent shall review the welding and 37299  
brazing procedure specifications and welder and brazer performance 37300  
qualifications as indicated on the forms to determine compliance 37301  
with rules adopted by the board of building standards under 37302  
division (A)(1) of section 4104.44 of the Revised Code. 37303

(2) If the superintendent finds that the welding and brazing procedure specifications and welder and brazer performance qualifications comply with the requirements of the rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code, the superintendent shall approve the welding and brazing procedure specifications and welder and brazer performance qualifications as indicated on the forms and return one copy to the manufacturer, contractor, owner, or user of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems who submitted the forms. 37304  
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(3) If the superintendent finds that the welding and brazing procedure specifications and welder and brazer performance qualifications do not comply with the requirements of the rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code, the superintendent shall indicate on the forms that the welding and brazing procedure specifications and welder and brazer performance qualifications are not approved and return one copy of the form to the manufacturer, contractor, owner, or user of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems who submitted the forms with an explanation of why the welding and brazing procedure specifications and welder and brazer performance qualifications were not approved. 37315  
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**Sec. 4104.44.** (A) The board of building standards, 37328  
established by section 3781.07 of the Revised Code, shall: 37329

(1) ~~Formulate~~ Adopt rules governing the design, plan review, 37330  
approval, construction, and installation of power, refrigerating, 37331  
hydraulic, heating, and liquefied petroleum gas, oxygen, and other 37332  
gaseous piping systems. ~~Such~~ The board of building standards may 37333  
include the rules for gaseous piping systems with the rules it 37334

adopts for buildings pursuant to section 3781.10 of the Revised 37335  
Code or with the rules it adopts for piping systems pursuant to 37336  
this section. The rules shall prescribe uniform minimum standards 37337  
necessary for the protection of the public health and safety and 37338  
shall include rules establishing the safe working pressure to be 37339  
carried by any such systems; a program for the certification of 37340  
the welding and brazing procedures proposed to be used on any such 37341  
system by the owner or operator of any welding or brazing business 37342  
and for quinquennial performance testing of welders and brazers 37343  
who work on any such system; and measures for the conservation of 37344  
energy. ~~Such~~ The rules shall be based upon and follow generally 37345  
accepted engineering standards, formulas, and practices 37346  
established and pertaining to such piping construction, 37347  
installation, and testing. The board may, for this purpose, adopt 37348  
existing published standards, as well as amendments thereto 37349  
subsequently published by the same authority. 37350

(2) Prescribe the tests, to ascertain the qualities of 37351  
materials and welding and brazing materials used in the 37352  
construction of power, refrigerating, hydraulic, heating, and 37353  
liquefied petroleum gas, oxygen, and other gaseous piping systems; 37354

(3) Make a standard form of certificate of inspection; 37355

(4) ~~Prescribe the examinations for applicants for~~ 37356  
~~certificates of competency provided for in section 4104.42 of the~~ 37357  
~~Revised Code and~~ performance tests to determine the proficiency of 37358  
welders and brazers; 37359

(5) Certify municipal and county building departments to 37360  
inspect power, refrigerating, hydraulic, heating, and liquefied 37361  
petroleum gas, oxygen, and other gaseous piping systems and adopt 37362  
rules governing such certification; 37363

~~(6) Establish the fee to be charged for an inspection made by~~ 37364  
~~a general inspector and for the filing and auditing of special~~ 37365

~~inspector reports, and collect all fees established in this section.~~ 37366  
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The fee for the quinquennial performance tests shall be 37368  
fifteen dollars and the fee for certification of welding and 37369  
brazing procedures mentioned in division (A) of this section shall 37370  
be sixty dollars, except that the board of building standards, 37371  
with the approval of the controlling board, may establish fees in 37372  
excess of these fees, provided that the fees do not exceed the 37373  
amounts of these fees by more than fifty per cent. The fee for 37374  
each welding and brazing instruction sheet and procedure 37375  
qualification record shall be fifteen dollars. Any moneys 37376  
collected under this section shall be paid into the state treasury 37377  
to the credit of the industrial compliance operating fund created 37378  
in section 121.084 of the Revised Code. 37379

~~(B) Piping is exempt from the requirements for submission of 37380  
applications and inspections and the necessity to obtain permits, 37381  
as required under this section and section 4104.45 of the Revised 37382  
Code, or under rules adopted pursuant to those sections, for 37383  
power, refrigerating, hydraulic, heating, and liquefied petroleum 37384  
gas, oxygen, and gaseous piping systems if the piping is used:~~ 37385

~~(1) In air cooling systems in residential or commercial 37386  
buildings and if such systems do not exceed five tons (sixty 37387  
thousand British thermal units per hour) per system; or 37388~~

~~(2) In air heating systems in residential or commercial 37389  
buildings and if such systems do not exceed one hundred fifty 37390  
thousand British thermal units per hour per system. 37391~~

~~(C) The board of building standards may, by rule, exempt from 37392  
the rules adopted pursuant to division (A)(1) of this section any 37393  
pressure piping power, refrigerating, hydraulic, heating and 37394  
liquefied petroleum gas, oxygen, or other gaseous piping systems 37395  
which that pose no appreciable danger to the public health and 37396~~

safety. 37397

**Sec. 4104.45.** (A) Except as otherwise provided in section 37398  
4104.44 of the Revised Code, new power, refrigerating, hydraulic, 37399  
heating, liquefied petroleum gas, oxygen, and other gaseous piping 37400  
systems shall be thoroughly inspected in accordance with the rules 37401  
of the board of building standards. Such ~~inspection~~ inspections 37402  
shall be performed by ~~one of the following:~~ 37403

~~(1) General inspectors of pressure piping systems;~~ 37404

~~(2) Special inspectors provided for in section 4104.43 of the 37405  
Revised Code;~~ 37406

~~(3) Local inspectors provided for in section 4104.43 of the 37407  
Revised Code.~~ 37408

~~(B) Owners or users of pressure piping systems required to be 37409  
inspected under this section shall pay to the division of 37410  
industrial compliance in the department of commerce a fee of one 37411  
hundred fifty dollars plus an additional fee determined as 37412  
follows:~~ 37413

~~(1) On or before June 30, 2000, two per cent of the actual 37414  
cost of the system for each inspection made by a general 37415  
inspector;~~ 37416

~~(2) On July 1, 2000, and through June 30, 2001, one and 37417  
eight tenths per cent of the actual cost of the system for each 37418  
inspection made by a general inspector;~~ 37419

~~(3) On and after July 1, 2001, one per cent of the actual 37420  
cost of the system for each inspection made by a general 37421  
inspector.~~ 37422

~~(C) The board of building standards, subject to the approval 37423  
of the controlling board, may establish a fee in excess of the fee 37424  
provided in division (B) of this section, provided that the fee 37425  
does not exceed the amount established in this section by more 37426~~

~~than fifty per cent.~~ 37427

~~(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.~~ 37428  
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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.~~ 37437  
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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 the Revised Code who are designated to do so by local building departments, as appropriate.~~ 37440  
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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~~ 37451  
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Code. 37459

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. 37460  
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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. 37465  
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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. 37471  
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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, oxygen, or other gaseous piping systems shall be recertified by a private vendor to perform those services five years after the date of the original certification and every five years thereafter in accordance with rules adopted by the board. A private vendor shall recertify a welder or brazer who meets the requirements established by the board under division (A)(1) of section 4104.44 of the Revised Code. 37476  
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Sec. ~~4104.46~~ 4104.48. (A) No person shall violate sections 4104.41 to ~~4104.46~~ 4104.48 of the Revised Code, fail to perform any duty lawfully enjoined in connection with those sections, or 37486  
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fail to comply with any order issued by the superintendent of the 37489  
division of industrial compliance or any judgment or decree issued 37490  
by any court in connection with the enforcement of sections 37491  
4104.41 to ~~4104.46~~ 4104.48 of the Revised Code. 37492

(B) Every day during which a person violates sections 4104.41 37493  
to ~~4104.46~~ 4104.48 of the Revised Code, fails to perform any duty 37494  
lawfully enjoined in connection with those sections, or fails to 37495  
comply with any order issued by the superintendent of the division 37496  
of industrial compliance or any judgment or decree issued by any 37497  
court in connection with the enforcement of sections 4104.41 to 37498  
~~4104.46~~ 4104.48 of the Revised Code constitutes a separate 37499  
offense. 37500

**Sec. 4105.17.** (A) The fee for each inspection, or attempted 37501  
inspection that, due to no fault of a general inspector or the 37502  
division of industrial compliance, is not successfully completed, 37503  
by a general inspector before the operation of a permanent new 37504  
elevator prior to the issuance of a certificate of operation, 37505  
before operation of an elevator being put back into service after 37506  
a repair, or as a result of the operation of section 4105.08 of 37507  
the Revised Code and is an elevator required to be inspected under 37508  
this chapter is twenty dollars plus ten dollars for each floor 37509  
where the elevator stops. The superintendent of industrial 37510  
compliance may assess an additional fee of one hundred twenty-five 37511  
dollars plus five dollars for each floor where an elevator stops 37512  
for the reinspection of an elevator when a previous attempt to 37513  
inspect that elevator has been unsuccessful through no fault of a 37514  
general inspector or the division of industrial compliance. 37515

(B) The fee for each inspection, or attempted inspection, 37516  
that due to no fault of the general inspector or the division of 37517  
industrial compliance, is not successfully completed by a general 37518  
inspector before operation of a permanent new escalator or moving 37519



walk prior to the issuance of a certificate of operation, before 37520  
operation of an escalator or moving walk being put back in service 37521  
after a repair, or as a result of the operation of section 4105.08 37522  
of the Revised Code is three hundred dollars. The superintendent 37523  
of the division of industrial compliance may assess an additional 37524  
fee of one hundred fifty dollars for the reinspection of an 37525  
escalator or moving walk when a previous attempt to inspect that 37526  
escalator or moving walk has been unsuccessful through no fault of 37527  
the general inspector or the division of industrial compliance. 37528

(C) The fee for issuing or renewing a certificate of 37529  
operation under section 4105.15 of the Revised Code for an 37530  
elevator that is inspected every six months in accordance with 37531  
division (A) of section 4105.10 of the Revised Code is ~~one~~ two 37532  
hundred ~~five~~ dollars plus ten dollars for each floor where the 37533  
elevator stops, except where the elevator has been inspected by a 37534  
special inspector in accordance with section 4105.07 of the 37535  
Revised Code. 37536

(D) The fee for issuing or renewing a certificate of 37537  
operation under section 4105.05 of the Revised Code for an 37538  
elevator that is inspected every twelve months in accordance with 37539  
division (A) of section 4105.10 of the Revised Code is fifty-five 37540  
dollars plus ten dollars for each floor where the elevator stops, 37541  
except where the elevator has been inspected by a special 37542  
inspector in accordance with section 4105.07 of the Revised Code. 37543

(E) The fee for issuing or renewing a certificate of 37544  
operation under section 4105.15 of the Revised Code for an 37545  
escalator or moving walk is three hundred dollars, except where 37546  
the escalator or moving walk has been inspected by a special 37547  
inspector in accordance section 4105.07 of the Revised Code. 37548

(F) All other fees to be charged for any examination given or 37549  
other service performed by the division of industrial compliance 37550  
pursuant to this chapter shall be prescribed by the director of 37551

commerce. The fees shall be reasonably related to the costs of 37552  
such examination or other service. 37553

(G) The director of commerce, subject to the approval of the 37554  
controlling board, may establish fees in excess of the fees 37555  
provided in divisions (A) ~~and~~, (B), (C), (D), and (E) of this 37556  
section, ~~provided that the fees do not exceed the amounts~~ 37557  
~~established in divisions (A) and (B) of this section by more than~~ 37558  
~~fifty per cent~~. Any moneys collected under this section shall be 37559  
paid into the state treasury to the credit of the industrial 37560  
compliance operating fund created in section 121.084 of the 37561  
Revised Code. 37562

(H) Any person who fails to pay an inspection fee required 37563  
for any inspection conducted by the division pursuant to this 37564  
chapter within forty-five days after the inspection is conducted 37565  
shall pay a late payment fee equal to twenty-five per cent of the 37566  
inspection fee. 37567

(I) In addition to the fees assessed in divisions (A), (B), 37568  
(C), ~~and~~ (D), and (E) of this section, the board of building 37569  
standards shall assess a fee of three dollars and twenty-five 37570  
cents for each certificate of operation or renewal thereof issued 37571  
under ~~division~~ divisions (A), (B), (C), (D), or (E) of this 37572  
section and for each permit issued under section 4105.16 of the 37573  
Revised Code. The board shall adopt rules, in accordance with 37574  
Chapter 119. of the Revised Code, specifying the manner by which 37575  
the superintendent of industrial compliance shall collect and 37576  
remit to the board the fees assessed under this division and 37577  
requiring that remittance of the fees be made at least quarterly. 37578

(J) For purposes of this section: 37579

(1) "Escalator" means a power driven, inclined, continuous 37580  
stairway used for raising or lowering passengers. 37581

(2) "Moving walk" means a passenger carrying device on which 37582

passengers stand or walk, with a passenger carrying surface that 37583  
is uninterrupted and remains parallel to its direction of motion. 37584

**Sec. 4112.15.** There is hereby created in the state treasury 37585  
the civil rights commission general reimbursement fund, which 37586  
shall be used to pay operating costs of the commission. All 37587  
amounts received by the commission, and all amounts awarded by a 37588  
court to the commission, for attorney's fees, court costs, expert 37589  
witness fees, and other litigation expenses shall be paid into the 37590  
state treasury to the credit of the fund. All ~~money paid to~~ 37591  
amounts received by the commission for copies of commission 37592  
documents and for other goods and services furnished by the 37593  
commission shall be ~~credited~~ paid into the state treasury to the 37594  
credit of the fund. 37595

**Sec. 4115.10.** (A) No person, firm, corporation, or public 37596  
authority that constructs a public improvement with its own 37597  
forces, the total overall project cost of which is fairly 37598  
estimated to be more than the amounts set forth in division (B)(1) 37599  
or (2) of section 4115.03 of the Revised Code, adjusted biennially 37600  
by the director of commerce pursuant to section 4115.034 of the 37601  
Revised Code, shall violate the wage provisions of sections 37602  
4115.03 to 4115.16 of the Revised Code, or suffer, permit, or 37603  
require any employee to work for less than the rate of wages so 37604  
fixed, or violate the provisions of section 4115.07 of the Revised 37605  
Code. Any employee upon any public improvement, except an employee 37606  
to whom or on behalf of whom restitution is made pursuant to 37607  
division (C) of section 4115.13 of the Revised Code, who is paid 37608  
less than the fixed rate of wages applicable thereto may recover 37609  
from such person, firm, corporation, or public authority that 37610  
constructs a public improvement with its own forces the difference 37611  
between the fixed rate of wages and the amount paid to the 37612  
employee and in addition thereto a sum equal to twenty-five per 37613

cent of that difference. The person, firm, corporation, or public 37614  
authority who fails to pay the rate of wages so fixed also shall 37615  
pay a penalty to the director of seventy-five per cent of the 37616  
difference between the fixed rate of wages and the amount paid to 37617  
the employees on the public improvement. The director shall 37618  
deposit all moneys received from penalties paid to the director 37619  
pursuant to this section into the penalty enforcement fund, which 37620  
is hereby created in the state treasury. The director shall use 37621  
the fund for the enforcement of sections 4115.03 to 4115.16 of the 37622  
Revised Code. The employee may file suit for recovery within ~~sixty~~ 37623  
ninety days of the director's determination of a violation of 37624  
sections 4115.03 to 4115.16 of the Revised Code or is barred from 37625  
further action under this division. Where the employee prevails in 37626  
a suit, the employer shall pay the costs and reasonable attorney's 37627  
fees allowed by the court. 37628

(B) Any employee upon any public improvement who is paid less 37629  
than the prevailing rate of wages applicable thereto may file a 37630  
complaint in writing with the director upon a form furnished by 37631  
the director. ~~At the written request~~ The complaint shall include 37632  
documented evidence to demonstrate that the employee was paid less 37633  
than the prevailing wage in violation of this chapter. Upon 37634  
receipt of a properly completed written complaint of any employee 37635  
paid less than the prevailing rate of wages applicable, the 37636  
director shall take an assignment of a claim in trust for the 37637  
assigning employee and bring any legal action necessary to collect 37638  
the claim. The employer shall pay the costs and reasonable 37639  
attorney's fees allowed by the court if the employer is found in 37640  
violation of sections 4115.03 to 4115.16 of the Revised Code. 37641

(C) If after investigation pursuant to section 4115.13 of the 37642  
Revised Code, the director determines there is a violation of 37643  
sections 4115.03 to 4115.16 of the Revised Code and a period of 37644  
sixty days has elapsed from the date of the determination, and if: 37645

(1) No employee has brought suit pursuant to division (A) of this section; 37646  
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(2) No employee has requested that the director take an assignment of a wage claim pursuant to division (B) of this section; 37648  
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The director shall bring any legal action necessary to collect any amounts owed to employees and the director. The director shall pay over to the affected employees the amounts collected to which the affected employees are entitled under division (A) of this section. In any action in which the director prevails, the employer shall pay the costs and reasonable attorney's fees allowed by the court. 37651  
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(D) Where persons are employed and their rate of wages has been determined as provided in section 4115.04 of the Revised Code, no person, either for self or any other person, shall request, demand, or receive, either before or after the person is engaged, that the person so engaged pay back, return, donate, contribute, or give any part or all of the person's wages, salary, or thing of value, to any person, upon the statement, representation, or understanding that failure to comply with such request or demand will prevent the procuring or retaining of employment, and no person shall, directly or indirectly, aid, request, or authorize any other person to violate this section. This division does not apply to any agent or representative of a duly constituted labor organization acting in the collection of dues or assessments of such organization. 37658  
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(E) The director shall enforce sections 4115.03 to 4115.16 of the Revised Code. 37672  
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(F) For the purpose of supplementing existing resources and to assist in enforcing division (E) of this section, the director may contract with a person registered as a public accountant under 37674  
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Chapter 4701. of the Revised Code to conduct an audit of a person, 37677  
firm, corporation, or public authority. 37678

Sec. 4115.21. A person who files a complaint with the 37679  
director of commerce alleging a violation of sections 4115.03 to 37680  
4115.16 of the Revised Code shall file the complaint within two 37681  
years after the completion of the public improvement upon which 37682  
the violation is alleged to have occurred or be barred from 37683  
further administrative action under this chapter. 37684

**Sec. 4117.02.** (A) There is hereby created the state 37685  
employment relations board, consisting of three members to be 37686  
appointed by the governor with the advice and consent of the 37687  
senate. Members shall be knowledgeable about labor relations or 37688  
personnel practices. No more than two of the three members shall 37689  
belong to the same political party. A member of the board during 37690  
the member's period of service shall hold no other public office 37691  
or public or private employment and shall allow no other 37692  
responsibilities to interfere or conflict with the member's duties 37693  
as a full-time board member. Of the initial appointments made to 37694  
the board, one shall be for a term ending October 6, 1984, one 37695  
shall be for a term ending October 6, 1985, and one shall be for a 37696  
term ending October 6, 1986. Thereafter, terms of office shall be 37697  
for six years, each term ending on the same day of the same month 37698  
of the year as did the term that it succeeds. Each member shall 37699  
hold office from the date of the member's appointment until the 37700  
end of the term for which the member is appointed. Any member 37701  
appointed to fill a vacancy occurring prior to the expiration of 37702  
the term for which the member's predecessor was appointed shall 37703  
hold office for the remainder of the term. Any member shall 37704  
continue in office subsequent to the expiration of the member's 37705  
term until the member's successor takes office or until a period 37706  
of sixty days has elapsed, whichever occurs first. The 37707

~~The governor shall designate one member to serve as~~ 37708  
~~chairperson of the board. The governor may remove any member of~~ 37709  
~~the board, upon notice and public hearing, for neglect of duty or~~ 37710  
~~malfeasance in office, but for no other cause.~~ 37711

(B) A (1) The governor shall designate one member of the 37712  
board to serve as chairperson of the board. The chairperson is the 37713  
head of the board and its chief executive officer. 37714

(2) The chairperson shall exercise all administrative powers 37715  
and duties conferred upon the board under this chapter and shall 37716  
do all of the following: 37717

(a) Except as provided in division (F)(2) of this section, 37718  
employ, promote, supervise, and remove all employees of the board, 37719  
and establish, change, or abolish positions and assign or reassign 37720  
the duties of those employees as the chairperson determines 37721  
necessary to achieve the most efficient performance of the board's 37722  
duties under this chapter; 37723

(b) Maintain the office of the board in Columbus and manage 37724  
the office's daily operations, including securing facilities, 37725  
equipment, and supplies necessary to house the board, employees of 37726  
the board, and files and records under the board's control; 37727

(c) Prepare and submit to the office of budget and management 37728  
a budget for each biennium according to section 107.03 of the 37729  
Revised Code, and include in the budget the costs of the board and 37730  
its staff and the board's costs in discharging any duty imposed by 37731  
law upon the board, the chairperson, or any of the board's 37732  
employees or agents. 37733

(C) The vacancy on the board does not impair the right of the 37734  
remaining members to exercise all the powers of the board, and two 37735  
members of the board, at all times, constitute a quorum. The board 37736  
shall have an official seal of which courts shall take judicial 37737  
notice. 37738

~~(C)~~(D) The board shall make an annual report in writing to the governor and to the general assembly, stating in detail the work it has done.

~~(D)~~(E) Compensation of the chairperson and members shall be in accordance with division (J) of section 124.15 of the Revised Code. The chairperson and the members are eligible for reappointment. In addition to such compensation, all members shall be reimbursed for their necessary expenses incurred in the performance of their work as members.

~~(E)~~(F)(1) The chairperson, after consulting with the other board members and receiving the consent of at least one other board member, shall appoint an executive director ~~and. The chairperson also shall appoint~~ attorneys, ~~and~~ attorney-trial examiners, ~~mediators, arbitrators, members of fact finding panels, directors for local areas, and other employees as it finds necessary for the proper performance of its duties and may prescribe their duties.~~ The

(2) The board shall appoint mediators, arbitrators, members of fact-finding panels, and directors for local areas, and shall prescribe their job duties.

(G)(1) The executive director shall serve at the pleasure of the chairperson. The executive director, under the direction of the chairperson, shall do all of the following:

(a) Act as chief administrative officer for the board;

(b) Ensure that all employees of the board comply with the rules of the board;

(c) Do all things necessary for the efficient and effective implementation of the duties of the board.

(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 37769  
described in that division. 37770

(H) The attorney general shall be the legal adviser of the 37771  
board and shall appear for and represent the board and its agents 37772  
in all legal proceedings. The board may utilize regional, local, 37773  
or other agencies, and utilize voluntary and uncompensated 37774  
services as needed. The board may contract with the federal 37775  
mediation and conciliation service for the assistance of 37776  
mediators, arbitrators, and other personnel the service makes 37777  
available. The board and the chairperson, respectively, shall 37778  
appoint all employees on the basis of training, practical 37779  
experience, education, and character, notwithstanding the 37780  
requirements established by section 119.09 of the Revised Code. 37781  
The board shall give special regard to the practical training and 37782  
experience that employees have for the particular position 37783  
involved. All full-time employees of the board excepting the 37784  
executive director, the head of the bureau of mediation, and the 37785  
personal secretaries and assistants of the board members are in 37786  
the classified service. All employees of the board shall be paid 37787  
in accordance with Chapter 124. of the Revised Code. 37788

~~(F)~~(I) The board shall select and assign examiners and other 37789  
agents whose functions are to conduct hearings with due regard to 37790  
their impartiality, judicial temperament, and knowledge. If in any 37791  
proceeding under this chapter, any party prior to five days before 37792  
the hearing thereto files with the board a sworn statement 37793  
charging that the examiner or other agent designated to conduct 37794  
the hearing is biased or partial in the proceeding, the board may 37795  
disqualify the person and designate another examiner or agent to 37796  
conduct the proceeding. At least ten days before any hearing, the 37797  
board shall notify all parties to a proceeding of the name of the 37798  
examiner or agent designated to conduct the hearing. 37799

~~(G)~~(J) The principal office of the board is in Columbus, but 37800

it may meet and exercise any or all of its powers at any other 37801  
place within the state. The board may, by one or more of its 37802  
employees, or any agents or agencies it designates, conduct in any 37803  
part of this state any proceeding, hearing, investigation, 37804  
inquiry, or election necessary to the performance of its 37805  
functions; provided, that no person so designated may later sit in 37806  
determination of an appeal of the decision of that cause or 37807  
matter. 37808

~~(H)~~(K) In addition to the powers and functions provided in 37809  
other sections of this chapter, the board shall do all of the 37810  
following: 37811

(1) Create a bureau of mediation within the state employment 37812  
relations board, to perform the functions provided in section 37813  
4117.14 of the Revised Code. This bureau shall also establish, 37814  
after consulting representatives of employee organizations and 37815  
public employers, panels of qualified persons to be available to 37816  
serve as members of fact-finding panels and arbitrators. 37817

(2) Conduct studies of problems involved in representation 37818  
and negotiation and make recommendations for legislation; 37819

(3) Hold hearings pursuant to this chapter and, for the 37820  
purpose of the hearings and inquiries, administer oaths and 37821  
affirmations, examine witnesses and documents, take testimony and 37822  
receive evidence, compel the attendance of witnesses and the 37823  
production of documents by the issuance of subpoenas, and delegate 37824  
these powers to any members of the board or any attorney-trial 37825  
examiner appointed by the board for the performance of its 37826  
functions; 37827

(4) Train representatives of employee organizations and 37828  
public employers in the rules and techniques of collective 37829  
bargaining procedures; 37830

(5) Make studies and analyses of, and act as a clearinghouse 37831

of information relating to, conditions of employment of public 37832  
employees throughout the state and request assistance, services, 37833  
and data from any public employee organization, public employer, 37834  
or governmental unit. Public employee organizations, public 37835  
employers, and governmental units shall provide such assistance, 37836  
services, and data as will enable the board to carry out its 37837  
functions and powers. 37838

(6) Make available to employee organizations, public 37839  
employers, mediators, fact-finding panels, arbitrators, and joint 37840  
study committees statistical data relating to wages, benefits, and 37841  
employment practices in public and private employment applicable 37842  
to various localities and occupations to assist them to resolve 37843  
issues in negotiations; 37844

(7) Notwithstanding section 119.13 of the Revised Code, 37845  
establish standards of persons who practice before it; 37846

(8) Adopt, amend, and rescind rules and procedures and 37847  
exercise other powers appropriate to carry out this chapter. 37848  
Before the adoption, amendment, or rescission of rules and 37849  
procedures under this section, the board shall do all of the 37850  
following: 37851

(a) Maintain a list of interested public employers and 37852  
employee organizations and mail notice to such groups of any 37853  
proposed rule or procedure, amendment thereto, or rescission 37854  
thereof at least thirty days before any public hearing thereon; 37855

(b) Mail a copy of each proposed rule or procedure, amendment 37856  
thereto, or rescission thereof to any person who requests a copy 37857  
within five days after receipt of the request therefor; 37858

(c) Consult with appropriate statewide organizations 37859  
representing public employers or employees who would be affected 37860  
by the proposed rule or procedure. 37861

Although the board is expected to discharge these duties 37862

diligently, failure to mail any notice or copy, or to so consult 37863  
with any person, is not jurisdictional and shall not be construed 37864  
to invalidate any proceeding or action of the board. 37865

~~(I)~~(L) In case of neglect or refusal to obey a subpoena 37866  
issued to any person, the court of common pleas of the county in 37867  
which the investigation or the public hearing occurs, upon 37868  
application by the board, may issue an order requiring the person 37869  
to appear before the board and give testimony about the matter 37870  
under investigation. The court may punish a failure to obey the 37871  
order as contempt. 37872

~~(J)~~(M) Any subpoena, notice of hearing, or other process or 37873  
notice of the board issued under this section may be served 37874  
personally, by certified mail, or by leaving a copy at the 37875  
principal office or personal residence of the respondent required 37876  
to be served. A return, made and verified by the individual making 37877  
the service and setting forth the manner of service, is proof of 37878  
service, and a return post office receipt, when certified mail is 37879  
used, is proof of service. All process in any court to which 37880  
application is made under this chapter may be served in the county 37881  
wherein the persons required to be served reside or are found. 37882

~~(K)~~(N) All expenses of the board, including all necessary 37883  
traveling and subsistence expenses incurred by the members or 37884  
employees of the board under its orders, shall be paid pursuant to 37885  
itemized vouchers approved by the chairperson of the board, the 37886  
executive director, or both, or such other person as the ~~board~~ 37887  
chairperson designates for that purpose. 37888

~~(L)~~(O) Whenever the board determines that a substantial 37889  
controversy exists with respect to the application or 37890  
interpretation of this chapter and the matter is of public or 37891  
great general interest, the board shall certify its final order 37892  
directly to the court of appeals having jurisdiction over the area 37893  
in which the principal office of the public employer directly 37894

affected by the application or interpretation is located. The 37895  
chairperson shall file with the clerk of the court a certified 37896  
copy of the transcript of the proceedings before the board 37897  
pertaining to the final order. If upon hearing and consideration 37898  
the court decides that the final order of the board is unlawful or 37899  
is not supported by substantial evidence on the record as a whole, 37900  
the court shall reverse and vacate the final order or modify it 37901  
and enter final judgment in accordance with the modification; 37902  
otherwise, the court shall affirm the final order. The notice of 37903  
the final order of the board to the interested parties shall 37904  
contain a certification by the chairperson of the board that the 37905  
final order is of public or great general interest and that a 37906  
certified transcript of the record of the proceedings before the 37907  
board had been filed with the clerk of the court as an appeal to 37908  
the court. For the purposes of this division, the board has 37909  
standing to bring its final order properly before the court of 37910  
appeals. 37911

~~(M)~~(P) Except as otherwise specifically provided in this 37912  
section, the board is subject to Chapter 119. of the Revised Code, 37913  
including the procedure for submission of proposed rules to the 37914  
general assembly for legislative review under division (H) of 37915  
section 119.03 of the Revised Code. 37916

**Sec. 4117.14.** (A) The procedures contained in this section 37917  
govern the settlement of disputes between an exclusive 37918  
representative and a public employer concerning the termination or 37919  
modification of an existing collective bargaining agreement or 37920  
negotiation of a successor agreement, or the negotiation of an 37921  
initial collective bargaining agreement. 37922

(B)(1) In those cases where there exists a collective 37923  
bargaining agreement, any public employer or exclusive 37924  
representative desiring to terminate, modify, or negotiate a 37925

successor collective bargaining agreement shall: 37926

(a) Serve written notice upon the other party of the proposed 37927  
termination, modification, or successor agreement. The party must 37928  
serve the notice not less than sixty days prior to the expiration 37929  
date of the existing agreement or, in the event the existing 37930  
collective bargaining agreement does not contain an expiration 37931  
date, not less than sixty days prior to the time it is proposed to 37932  
make the termination or modifications or to make effective a 37933  
successor agreement. 37934

(b) Offer to bargain collectively with the other party for 37935  
the purpose of modifying or terminating any existing agreement or 37936  
negotiating a successor agreement; 37937

(c) Notify the state employment relations board of the offer 37938  
by serving upon the board a copy of the written notice to the 37939  
other party and a copy of the existing collective bargaining 37940  
agreement. 37941

(2) In the case of initial negotiations between a public 37942  
employer and an exclusive representative, where a collective 37943  
bargaining agreement has not been in effect between the parties, 37944  
any party may serve notice upon the board and the other party 37945  
setting forth the names and addresses of the parties and offering 37946  
to meet, for a period of ninety days, with the other party for the 37947  
purpose of negotiating a collective bargaining agreement. 37948

If the settlement procedures specified in divisions (B), (C), 37949  
and (D) of this section govern the parties, where those procedures 37950  
refer to the expiration of a collective bargaining agreement, it 37951  
means the expiration of the sixty-day period to negotiate a 37952  
collective bargaining agreement referred to in this subdivision, 37953  
or in the case of initial negotiations, it means the ninety day 37954  
period referred to in this subdivision. 37955

(3) The parties shall continue in full force and effect all 37956

the terms and conditions of any existing collective bargaining 37957  
agreement, without resort to strike or lock-out, for a period of 37958  
sixty days after the party gives notice or until the expiration 37959  
date of the collective bargaining agreement, whichever occurs 37960  
later, or for a period of ninety days where applicable. 37961

(4) Upon receipt of the notice, the parties shall enter into 37962  
collective bargaining. 37963

(C) In the event the parties are unable to reach an 37964  
agreement, they may submit, at any time prior to forty-five days 37965  
before the expiration date of the collective bargaining agreement, 37966  
the issues in dispute to any mutually agreed upon dispute 37967  
settlement procedure which supersedes the procedures contained in 37968  
this section. 37969

(1) The procedures may include: 37970

(a) Conventional arbitration of all unsettled issues; 37971

(b) Arbitration confined to a choice between the last offer 37972  
of each party to the agreement as a single package; 37973

(c) Arbitration confined to a choice of the last offer of 37974  
each party to the agreement on each issue submitted; 37975

(d) The procedures described in division (C)(1)(a), (b), or 37976  
(c) of this section and including among the choices for the 37977  
arbitrator, the recommendations of the fact finder, if there are 37978  
recommendations, either as a single package or on each issue 37979  
submitted; 37980

(e) Settlement by a citizens' conciliation council composed 37981  
of three residents within the jurisdiction of the public employer. 37982  
The public employer shall select one member and the exclusive 37983  
representative shall select one member. The two members selected 37984  
shall select the third member who shall chair the council. If the 37985  
two members cannot agree upon a third member within five days 37986

after their appointments, the board shall appoint the third 37987  
member. Once appointed, the council shall make a final settlement 37988  
of the issues submitted to it pursuant to division (G) of this 37989  
section. 37990

(f) Any other dispute settlement procedure mutually agreed to 37991  
by the parties. 37992

(2) If, fifty days before the expiration date of the 37993  
collective bargaining agreement, the parties are unable to reach 37994  
an agreement, any party may request the state employment relations 37995  
board to intervene. The request shall set forth the names and 37996  
addresses of the parties, the issues involved, and, if applicable, 37997  
the expiration date of any agreement. 37998

The board shall intervene and investigate the dispute to 37999  
determine whether the parties have engaged in collective 38000  
bargaining. 38001

If an impasse exists or forty-five days before the expiration 38002  
date of the collective bargaining agreement if one exists, the 38003  
board shall appoint a mediator to assist the parties in the 38004  
collective bargaining process. 38005

(3) ~~If the mediator after assisting the parties advises the 38006  
board that the parties have reached an impasse, or not later than 38007  
thirty one days prior to the expiration date of the agreement Any 38008  
time after the appointment of a mediator, either party may request 38009  
the appointment of a fact-finding panel. Within fifteen days after 38010  
receipt of a request for a fact-finding panel, the board shall 38011  
appoint ~~within one day~~ a fact-finding panel of not more than three 38012  
members who have been selected by the parties in accordance with 38013  
rules established by the board, from a list of qualified persons 38014  
maintained by the board. 38015~~

(a) The fact-finding panel shall, in accordance with rules 38016  
and procedures established by the board that include the 38017



regulation of costs and expenses of fact-finding, gather facts and 38018  
make recommendations for the resolution of the matter. The board 38019  
shall by its rules require each party to specify in writing the 38020  
unresolved issues and its position on each issue to the 38021  
fact-finding panel. The fact-finding panel shall make final 38022  
recommendations as to all the unresolved issues. 38023

(b) The board may continue mediation, order the parties to 38024  
engage in collective bargaining until the expiration date of the 38025  
agreement, or both. 38026

(4) The following guidelines apply to fact-finding: 38027

(a) The fact-finding panel may establish times and place of 38028  
hearings which shall be, where feasible, in the jurisdiction of 38029  
the state. 38030

(b) The fact-finding panel shall conduct the hearing pursuant 38031  
to rules established by the board. 38032

(c) Upon request of the fact-finding panel, the board shall 38033  
issue subpoenas for hearings conducted by the panel. 38034

(d) The fact-finding panel may administer oaths. 38035

(e) The board shall prescribe guidelines for the fact-finding 38036  
panel to follow in making findings. In making its recommendations, 38037  
the fact-finding panel shall take into consideration the factors 38038  
listed in divisions (G)(7)(a) to (f) of this section. 38039

(f) The fact-finding panel may attempt mediation at any time 38040  
during the fact-finding process. From the time of appointment 38041  
until the fact-finding panel makes a final recommendation, it 38042  
shall not discuss the recommendations for settlement of the 38043  
dispute with parties other than the direct parties to the dispute. 38044

(5) The fact-finding panel, acting by a majority of its 38045  
members, shall transmit its findings of fact and recommendations 38046  
on the unresolved issues to the public employer and employee 38047

organization involved and to the board no later than fourteen days 38048  
after the appointment of the fact-finding panel, unless the 38049  
parties mutually agree to an extension. The ~~state~~ parties shall 38050  
~~pay one half share~~ the cost of the fact-finding panel. ~~The parties~~ 38051  
~~each shall pay one half of the remaining costs~~ in a manner agreed 38052  
to by the parties. 38053

(6)(a) Not later than seven days after the findings and 38054  
recommendations are sent, the legislative body, by a three-fifths 38055  
vote of its total membership, and in the case of the public 38056  
employee organization, the membership, by a three-fifths vote of 38057  
the total membership, may reject the recommendations; if neither 38058  
rejects the recommendations, the recommendations shall be deemed 38059  
agreed upon as the final resolution of the issues submitted and a 38060  
collective bargaining agreement shall be executed between the 38061  
parties, including the fact-finding panel's recommendations, 38062  
except as otherwise modified by the parties by mutual agreement. 38063  
If either the legislative body or the public employee organization 38064  
rejects the recommendations, the board shall publicize the 38065  
findings of fact and recommendations of the fact-finding panel. 38066  
The board shall adopt rules governing the procedures and methods 38067  
for public employees to vote on the recommendations of the 38068  
fact-finding panel. 38069

(b) As used in division (C)(6)(a) of this section, 38070  
"legislative body" means the controlling board when the state or 38071  
any of its agencies, authorities, commissions, boards, or other 38072  
branch of public employment is party to the fact-finding process. 38073

(D) If the parties are unable to reach agreement within seven 38074  
days after the publication of findings and recommendations from 38075  
the fact-finding panel or the collective bargaining agreement, if 38076  
one exists, has expired, then the: 38077

(1) Public employees, who are members of a police or fire 38078  
department, members of the state highway patrol, deputy sheriffs, 38079

dispatchers employed by a police, fire or sheriff's department or 38080  
the state highway patrol or civilian dispatchers employed by a 38081  
public employer other than a police, fire, or sheriff's department 38082  
to dispatch police, fire, sheriff's department, or emergency 38083  
medical or rescue personnel and units, an exclusive nurse's unit, 38084  
employees of the state school for the deaf or the state school for 38085  
the blind, employees of any public employee retirement system, 38086  
corrections officers, guards at penal or mental institutions, 38087  
special police officers appointed in accordance with sections 38088  
5119.14 and 5123.13 of the Revised Code, psychiatric attendants 38089  
employed at mental health forensic facilities, or youth leaders 38090  
employed at juvenile correctional facilities, shall submit the 38091  
matter to a final offer settlement procedure pursuant to a board 38092  
order issued forthwith to the parties to settle by a conciliator 38093  
selected by the parties. The parties shall request from the board 38094  
a list of five qualified conciliators and the parties shall select 38095  
a single conciliator from the list by alternate striking of names. 38096  
If the parties cannot agree upon a conciliator within five days 38097  
after the board order, the board shall on the sixth day after its 38098  
order appoint a conciliator from a list of qualified persons 38099  
maintained by the board or shall request a list of qualified 38100  
conciliators from the American arbitration association and appoint 38101  
therefrom. 38102

(2) Public employees other than those listed in division 38103  
(D)(1) of this section have the right to strike under Chapter 38104  
4117. of the Revised Code provided that the employee organization 38105  
representing the employees has given a ten-day prior written 38106  
notice of an intent to strike to the public employer and to the 38107  
board, and further provided that the strike is for full, 38108  
consecutive work days and the beginning date of the strike is at 38109  
least ten work days after the ending date of the most recent prior 38110  
strike involving the same bargaining unit; however, the board, at 38111  
its discretion, may attempt mediation at any time. 38112

(E) Nothing in this section shall be construed to prohibit 38113  
the parties, at any time, from voluntarily agreeing to submit any 38114  
or all of the issues in dispute to any other alternative dispute 38115  
settlement procedure. An agreement or statutory requirement to 38116  
arbitrate or to settle a dispute pursuant to a final offer 38117  
settlement procedure and the award issued in accordance with the 38118  
agreement or statutory requirement is enforceable in the same 38119  
manner as specified in division (B) of section 4117.09 of the 38120  
Revised Code. 38121

(F) Nothing in this section shall be construed to prohibit a 38122  
party from seeking enforcement of a collective bargaining 38123  
agreement or a conciliator's award as specified in division (B) of 38124  
section 4117.09 of the Revised Code. 38125

(G) The following guidelines apply to final offer settlement 38126  
proceedings under division (D)(1) of this section: 38127

(1) The parties shall submit to final offer settlement those 38128  
issues that are subject to collective bargaining as provided by 38129  
section 4117.08 of the Revised Code and upon which the parties 38130  
have not reached agreement and other matters mutually agreed to by 38131  
the public employer and the exclusive representative; except that 38132  
the conciliator may attempt mediation at any time. 38133

(2) The conciliator shall hold a hearing within thirty days 38134  
of the board's order to submit to a final offer settlement 38135  
procedure, or as soon thereafter as is practicable. 38136

(3) The conciliator shall conduct the hearing pursuant to 38137  
rules developed by the board. The conciliator shall establish the 38138  
hearing time and place, but it shall be, where feasible, within 38139  
the jurisdiction of the state. Not later than five calendar days 38140  
before the hearing, each of the parties shall submit to the 38141  
conciliator, to the opposing party, and to the board, a written 38142  
report summarizing the unresolved issues, the party's final offer 38143

as to the issues, and the rationale for that position. 38144

(4) Upon the request by the conciliator, the board shall 38145  
issue subpoenas for the hearing. 38146

(5) The conciliator may administer oaths. 38147

(6) The conciliator shall hear testimony from the parties and 38148  
provide for a written record to be made of all statements at the 38149  
hearing. The board shall submit for inclusion in the record and 38150  
for consideration by the conciliator the written report and 38151  
recommendation of the fact-finders. 38152

(7) After hearing, the conciliator shall resolve the dispute 38153  
between the parties by selecting, on an issue-by-issue basis, from 38154  
between each of the party's final settlement offers, taking into 38155  
consideration the following: 38156

(a) Past collectively bargained agreements, if any, between 38157  
the parties; 38158

(b) Comparison of the issues submitted to final offer 38159  
settlement relative to the employees in the bargaining unit 38160  
involved with those issues related to other public and private 38161  
employees doing comparable work, giving consideration to factors 38162  
peculiar to the area and classification involved; 38163

(c) The interests and welfare of the public, the ability of 38164  
the public employer to finance and administer the issues proposed, 38165  
and the effect of the adjustments on the normal standard of public 38166  
service; 38167

(d) The lawful authority of the public employer; 38168

(e) The stipulations of the parties; 38169

(f) Such other factors, not confined to those listed in this 38170  
section, which are normally or traditionally taken into 38171  
consideration in the determination of the issues submitted to 38172  
final offer settlement through voluntary collective bargaining, 38173

mediation, fact-finding, or other impasse resolution procedures in 38174  
the public service or in private employment. 38175

(8) Final offer settlement awards made under Chapter 4117. of 38176  
the Revised Code are subject to Chapter 2711. of the Revised Code. 38177

(9) If more than one conciliator is used, the determination 38178  
must be by majority vote. 38179

(10) The conciliator shall make written findings of fact and 38180  
promulgate a written opinion and order upon the issues presented 38181  
to the conciliator, and upon the record made before the 38182  
conciliator and shall mail or otherwise deliver a true copy 38183  
thereof to the parties and the board. 38184

(11) Increases in rates of compensation and other matters 38185  
with cost implications awarded by the conciliator may be effective 38186  
only at the start of the fiscal year next commencing after the 38187  
date of the final offer settlement award; provided that if a new 38188  
fiscal year has commenced since the issuance of the board order to 38189  
submit to a final offer settlement procedure, the awarded 38190  
increases may be retroactive to the commencement of the new fiscal 38191  
year. The parties may, at any time, amend or modify a 38192  
conciliator's award or order by mutual agreement. 38193

(12) The parties shall bear equally the cost of the final 38194  
offer settlement procedure. 38195

(13) Conciliators appointed pursuant to this section shall be 38196  
residents of the state. 38197

(H) All final offer settlement awards and orders of the 38198  
conciliator made pursuant to Chapter 4117. of the Revised Code are 38199  
subject to review by the court of common pleas having jurisdiction 38200  
over the public employer as provided in Chapter 2711. of the 38201  
Revised Code. If the public employer is located in more than one 38202  
court of common pleas district, the court of common pleas in which 38203  
the principal office of the chief executive is located has 38204

jurisdiction.	38205
(I) The issuance of a final offer settlement award	38206
constitutes a binding mandate to the public employer and the	38207
exclusive representative to take whatever actions are necessary to	38208
implement the award.	38209
<b>Sec. 4123.27.</b> Information contained in the annual statement	38210
provided for in section 4123.26 of the Revised Code, and such	38211
other information as may be furnished to the bureau of workers'	38212
compensation by employers in pursuance of that section, is for the	38213
exclusive use and information of the bureau in the discharge of	38214
its official duties, and shall not be open to the public nor be	38215
used in any court in any action or proceeding pending therein	38216
unless the bureau is a party to the action or proceeding; but the	38217
information contained in the statement may be tabulated and	38218
published by the bureau in statistical form for the use and	38219
information of other state departments and the public. No person	38220
in the employ of the bureau, except those who are authorized by	38221
the administrator of workers' compensation, shall divulge any	38222
information secured by the person while in the employ of the	38223
bureau in respect to the transactions, property, claim files,	38224
records, or papers of the bureau or in respect to the business or	38225
mechanical, chemical, or other industrial process of any company,	38226
firm, corporation, person, association, partnership, or public	38227
utility to any person other than the administrator or to the	38228
superior of such employee of the bureau.	38229
Notwithstanding the restrictions imposed by this section, the	38230
governor, select or standing committees of the general assembly,	38231
the auditor of state, the attorney general, or their designees,	38232
pursuant to the authority granted in this chapter and Chapter	38233
4121. of the Revised Code, may examine any records, claim files,	38234
or papers in possession of the industrial commission or the	38235

bureau. They also are bound by the privilege that attaches to 38236  
these papers. 38237

The administrator shall report to the director of job and 38238  
family services or to the county director of job and family 38239  
services the name, address, and social security number or other 38240  
identification number of any person receiving workers' 38241  
compensation whose name or social security number or other 38242  
identification number is the same as that of a person required by 38243  
a court or child support enforcement agency to provide support 38244  
payments to a recipient or participant of public assistance, and 38245  
whose name is submitted to the administrator by the director under 38246  
section 5101.36 of the Revised Code. The administrator also shall 38247  
inform the director of the amount of workers' compensation paid to 38248  
the person during such period as the director specifies. 38249

Within fourteen days after receiving from the director of job 38250  
and family services a list of the names and social security 38251  
numbers of recipients or participants of public assistance 38252  
pursuant to section 5101.181 of the Revised Code, the 38253  
administrator shall inform the auditor of state of the name, 38254  
current or most recent address, and social security number of each 38255  
person receiving workers' compensation pursuant to this chapter 38256  
whose name and social security number are the same as that of a 38257  
person whose name or social security number was submitted by the 38258  
director. The administrator also shall inform the auditor of state 38259  
of the amount of workers' compensation paid to the person during 38260  
such period as the director specifies. 38261

The bureau and its employees, except for purposes of 38262  
furnishing the auditor of state with information required by this 38263  
section, shall preserve the confidentiality of recipients or 38264  
participants of public assistance in compliance with division (A) 38265  
of section 5101.181 of the Revised Code. 38266

For the purposes of this section, "public assistance" means 38267



medical assistance provided through the medical assistance program 38268  
established under section 5111.01 of the Revised Code, Ohio works 38269  
first provided under Chapter 5107. of the Revised Code, 38270  
prevention, retention, and contingency benefits and services 38271  
provided under Chapter 5108. of the Revised Code, ~~or~~ disability 38272  
financial assistance provided under Chapter 5115. of the Revised 38273  
Code, or disability medical assistance provided under Chapter 38274  
5115. of the Revised Code. 38275

**Sec. 4123.41.** (A) By the first day of January of each year, 38276  
the bureau of workers' compensation shall furnish to the county 38277  
auditor of each county and the chief fiscal officer of each taxing 38278  
district in a county and of each district activity and institution 38279  
mentioned in section 4123.39 of the Revised Code forms containing 38280  
the premium rates applicable to the county, district, district 38281  
activity, or institution as an employer, on which to report the 38282  
amount of money expended by the county, district, district 38283  
activity, or institution during the previous twelve calendar 38284  
months for the services of employees under this chapter. 38285

(B) Each county auditor and each fiscal officer of a 38286  
district, district activity, and institution shall calculate on 38287  
the form it receives from the bureau under division (A) of this 38288  
section the premium due as its proper contribution to the public 38289  
insurance fund and issue ~~his~~ a warrant in favor of the bureau for 38290  
the amount due from the county, district, district activity, or 38291  
institution to the public insurance fund according to the 38292  
following schedule: 38293

(1) On or before the fifteenth day of May of each year, no 38294  
less than forty-five per cent of the amount due; 38295

(2) On or before the first day of September of each year, no 38296  
less than the total amount due. 38297

The legislative body of any county, district, district 38298

activity, or institution may reimburse the fund from which the 38299  
contribution is made by transferring to the fund from any other 38300  
fund of the county, district, district activity, or institution, 38301  
the proportionate amount of the contribution that should be 38302  
chargeable to the fund, whether the fund is derived from taxation 38303  
or otherwise. The proportionate amount of the contribution 38304  
chargeable to the fund may be based on payroll, relative exposure, 38305  
relative loss experience, or any combination of these factors, as 38306  
determined by the legislative body. A transfer made pursuant to 38307  
division (B)(2) of this section is not subject to section 5705.16 38308  
of the Revised Code. 38309

(C) The bureau may investigate the correctness of the 38310  
information provided by the county auditor and chief fiscal 38311  
officer under division (B) of this section, and if the bureau 38312  
determines at any time that the county, district, district 38313  
activity, or institution has not reported the correct information, 38314  
the administrator of workers' compensation may make deductions or 38315  
additions as the facts warrant and take those facts into 38316  
consideration in determining the current or future contributions 38317  
to be made by the county, district, district activity, or 38318  
institution. If the county, district, district activity, or 38319  
institution does not furnish the report in the time required by 38320  
this section, the administrator may fix the amount of contribution 38321  
the county, district, district activity, or institution must make 38322  
and certify that amount for payment. 38323

(D) The administrator shall provide a discount to any county, 38324  
district, district activity, or institution that pays its total 38325  
amount due to the public insurance fund on or before the fifteenth 38326  
day of May of each year as its proper contribution for premiums. 38327  
The administrator shall base the discount provided under this 38328  
division on the savings generated by the early payment to the 38329  
public insurance fund. The administrator may provide the discount 38330

through a refund to the county, district, district activity, or 38331  
institution or an offset against the future contributions due to 38332  
the public insurance fund from the county, district, district 38333  
activity, or institution. 38334

(E) The administrator may impose an interest penalty for late 38335  
payment of any amount due from a county, district, district 38336  
activity, and institution at the interest rate established by the 38337  
state tax commissioner pursuant to section 5703.47 of the Revised 38338  
Code. 38339

**Sec. 4141.04.** The director of job and family services shall 38340  
maintain or ensure the existence of public employment offices that 38341  
are free to the general public. These offices shall exist in such 38342  
number and in such places as are necessary for the proper 38343  
administration of this chapter, to perform such duties as are 38344  
within the purview of the act of congress entitled "an act to 38345  
provide for the establishment of a national employment system and 38346  
for cooperation with the states in the promotion of such system, 38347  
and for other purposes," approved June 6, 1933, as amended, which 38348  
is known as the "Wagner-Peyser Act." The director shall cooperate 38349  
with any official or agency of the United States having powers or 38350  
duties under that act of congress and shall do and perform all 38351  
things necessary to secure to this state the benefits of that act 38352  
of congress in the promotion and maintenance of a system of public 38353  
employment offices. That act of congress is hereby accepted by 38354  
this state, in conformity with that act of congress and Title III 38355  
of the "Social Security Act," and the "Federal Unemployment Tax 38356  
Act," 26 U.S.C.A. 3301, as amended, and this state will observe 38357  
and comply with the requirements thereof. The department of job 38358  
and family services is hereby designated and constituted the 38359  
agency of this state for the purposes of that act of congress. 38360

The director may cooperate with or enter into agreements with 38361

the railroad retirement board with respect to the establishment, 38362  
maintenance, and use of employment service facilities that are 38363  
free to the general public. 38364

All moneys received by this state under the act of congress 38365  
known as the Wagner-Peyser Act shall be ~~paid~~ deposited into the 38366  
state treasury to the credit of the special employment service 38367  
account in the ~~unemployment compensation administration~~ federal 38368  
operating fund, which is hereby created. Those moneys are hereby 38369  
made available to the director to be expended as provided by this 38370  
section and by that act of congress. For the purpose of 38371  
establishing and maintaining public employment offices that are 38372  
free to the general public, the director may enter into agreements 38373  
with the railroad retirement board or any other agency of the 38374  
United States charged with the administration of an unemployment 38375  
compensation law, with any political subdivision of this state, or 38376  
with any private, nonprofit organization and as a part of any such 38377  
agreement the director may accept moneys, services, or quarters as 38378  
a contribution to the employment service account. 38379

The director shall maintain labor market information and 38380  
employment statistics as necessary for the administration of this 38381  
chapter. 38382

The director shall appoint an employee of the department to 38383  
serve as an ex officio member of the governor's council to 38384  
maintain a liaison between the department and the governor's 38385  
council on people with disabilities. 38386

**Sec. 4141.09.** (A) There is hereby created an unemployment 38387  
compensation fund to be administered by the state without 38388  
liability on the part of the state beyond the amounts paid into 38389  
the fund and earned by the fund. The unemployment compensation 38390  
fund shall consist of all contributions, payments in lieu of 38391  
contributions described in sections 4141.241 and 4141.242 of the 38392

Revised Code, reimbursements of the federal share of extended 38393  
benefits described in section 4141.301 of the Revised Code, 38394  
collected under sections 4141.01 to 4141.46 of the Revised Code, 38395  
together with all interest earned upon any moneys deposited with 38396  
the secretary of the treasury of the United States to the credit 38397  
of the account of this state in the unemployment trust fund 38398  
established and maintained pursuant to section 904 of the "Social 38399  
Security Act," any property or securities acquired through the use 38400  
of moneys belonging to the fund, and all earnings of such property 38401  
or securities. The unemployment compensation fund shall be used to 38402  
pay benefits and refunds as provided by such sections and for no 38403  
other purpose. 38404

(B) The treasurer of state shall be the custodian of the 38405  
unemployment compensation fund and shall administer such fund in 38406  
accordance with the directions of the director of job and family 38407  
services. All disbursements therefrom shall be paid by the 38408  
treasurer of state on warrants drawn by the director. Such 38409  
warrants may bear the facsimile signature of the director printed 38410  
thereon and that of a deputy or other employee of the director 38411  
charged with the duty of keeping the account of the unemployment 38412  
compensation fund and with the preparation of warrants for the 38413  
payment of benefits to the persons entitled thereto. Moneys in the 38414  
clearing and benefit accounts shall not be commingled with other 38415  
state funds, except as provided in division (C) of this section, 38416  
but shall be maintained in separate accounts on the books of the 38417  
depository bank. Such money shall be secured by the depository 38418  
bank to the same extent and in the same manner as required by 38419  
sections 135.01 to 135.21 of the Revised Code; and collateral 38420  
pledged for this purpose shall be kept separate and distinct from 38421  
any collateral pledged to secure other funds of this state. All 38422  
sums recovered for losses sustained by the unemployment 38423  
compensation fund shall be deposited therein. The treasurer of 38424  
state shall be liable on the treasurer's official bond for the 38425

faithful performance of the treasurer's duties in connection with 38426  
the unemployment compensation fund, such liability to exist in 38427  
addition to any liability upon any separate bond. 38428

(C) The treasurer of state shall maintain within the 38429  
unemployment compensation fund three separate accounts which shall 38430  
be a clearing account, an unemployment trust fund account, and a 38431  
benefit account. All moneys payable to the unemployment 38432  
compensation fund, upon receipt thereof by the director, shall be 38433  
forwarded to the treasurer of state, who shall immediately deposit 38434  
them in the clearing account. Refunds of contributions, or 38435  
payments in lieu of contributions, payable pursuant to division 38436  
(E) of this section may be paid from the clearing account upon 38437  
warrants signed by a deputy or other employee of the director 38438  
charged with the duty of keeping the record of the clearing 38439  
account and with the preparation of warrants for the payment of 38440  
refunds to persons entitled thereto. After clearance thereof, all 38441  
moneys in the clearing account shall be deposited with the 38442  
secretary of the treasury of the United States to the credit of 38443  
the account of this state in the unemployment trust fund 38444  
established and maintained pursuant to section 904 of the "Social 38445  
Security Act," in accordance with requirements of the "Federal 38446  
Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301, 38447  
3304(a)(3), any law in this state relating to the deposit, 38448  
administration, release, or disbursement of moneys in the 38449  
possession or custody of this state to the contrary 38450  
notwithstanding. The benefit account shall consist of all moneys 38451  
requisitioned from this state's account in the unemployment trust 38452  
fund. Federal funds, other than funds received by the director 38453  
under divisions (I) and (J) of this section, received for payment 38454  
of federal benefits may be deposited into the benefit account 38455  
solely for payment of benefits under a federal program 38456  
administered by this state. Moneys so requisitioned shall be used 38457  
solely for the payment of benefits and for no other purpose. 38458

Moneys in the clearing and benefit accounts may be deposited by 38459  
the treasurer of state, under the direction of the director, in 38460  
any bank or public depository in which general funds of the state 38461  
may be deposited, but no public deposit insurance charge or 38462  
premium shall be paid out of the fund. 38463

(D) Moneys shall be requisitioned from this state's account 38464  
in the unemployment trust fund solely for the payment of benefits 38465  
and in accordance with regulations prescribed by the director. The 38466  
director shall requisition from the unemployment trust fund such 38467  
amounts, not exceeding the amount standing to this state's account 38468  
therein, as are deemed necessary for the payment of benefits for a 38469  
reasonable future period. Upon receipt thereof, the treasurer of 38470  
state shall deposit such moneys in the benefit account. 38471  
Expenditures of such money in the benefit account and refunds from 38472  
the clearing account shall not require specific appropriations or 38473  
other formal release by state officers of money in their custody. 38474  
Any balance of moneys requisitioned from the unemployment trust 38475  
fund which remains unclaimed or unpaid in the benefit account 38476  
after the expiration of the period for which such sums were 38477  
requisitioned shall either be deducted from estimates for and may 38478  
be utilized for the payment of benefits during succeeding periods, 38479  
or, in the discretion of the director, shall be redeposited with 38480  
the secretary of the treasury of the United States to the credit 38481  
of this state's account in the unemployment trust fund, as 38482  
provided in division (C) of this section. Unclaimed or unpaid 38483  
federal funds redeposited with the secretary of the treasury of 38484  
the United States shall be credited to the appropriate federal 38485  
account. 38486

(E) No claim for an adjustment or a refund on contribution, 38487  
payment in lieu of contributions, interest, or forfeiture alleged 38488  
to have been erroneously or illegally assessed or collected, or 38489  
alleged to have been collected without authority, and no claim for 38490

an adjustment or a refund of any sum alleged to have been 38491  
excessive or in any manner wrongfully collected shall be allowed 38492  
unless an application, in writing, therefor is made within four 38493  
years from the date on which such payment was made. If the 38494  
director ~~determins~~ determines that such contribution, payment in 38495  
lieu of contributions, ~~interest~~ interest, or forfeiture, or any 38496  
portion ~~thereof~~ thereof, was erroneously collected, the director 38497  
shall allow such employer to make an adjustment thereof without 38498  
interest in connection with subsequent contribution payments, or 38499  
payments in lieu of contributions, by the employer, or the 38500  
director may refund said amount, without interest, from the 38501  
clearing account of the unemployment compensation fund, except as 38502  
provided in division (B) of section 4141.11 of the Revised Code. 38503  
For like cause and within the same period, adjustment or refund 38504  
may be so made on the director's own initiative. An overpayment of 38505  
contribution, payment in lieu of contributions, interest, or 38506  
forfeiture for which an employer has not made application for 38507  
refund prior to the date of sale of the employer's business shall 38508  
accrue to the employer's successor in interest. 38509

An application for an adjustment or a refund, or any portion 38510  
thereof, that is rejected is binding upon the employer unless, 38511  
within thirty days after the mailing of a written notice of 38512  
rejection to the employer's last known address, or, in the absence 38513  
of mailing of such notice, within thirty days after the delivery 38514  
of such notice, the employer files an application for a review and 38515  
redetermination setting forth the reasons therefor. The director 38516  
shall promptly examine the application for review and 38517  
redetermination, and if a review is granted, the employer shall be 38518  
promptly notified thereof, and shall be granted an opportunity for 38519  
a prompt hearing. 38520

(F) If the director finds that contributions have been paid 38521  
to the director in error, and that such contributions should have 38522



been paid to a department of another state or of the United States 38523  
charged with the administration of an unemployment compensation 38524  
law, the director may upon request by such department or upon the 38525  
director's own initiative transfer to such department the amount 38526  
of such contributions, less any benefits paid to claimants whose 38527  
wages were the basis for such contributions. The director may 38528  
request and receive from such department any contributions or 38529  
adjusted contributions paid in error to such department which 38530  
should have been paid to the director. 38531

(G) In accordance with section 303(c)(3) of the Social 38532  
Security Act, and section 3304(a)(17) of the Internal Revenue Code 38533  
of 1954 for continuing certification of Ohio unemployment 38534  
compensation laws for administrative grants and for tax credits, 38535  
any interest required to be paid on advances under Title XII of 38536  
the Social Security Act shall be paid in a timely manner and shall 38537  
not be paid, directly or indirectly, by an equivalent reduction in 38538  
the Ohio unemployment taxes or otherwise, by the state from 38539  
amounts in the unemployment compensation fund. 38540

(H) The treasurer of state, under the direction of the 38541  
director and in accordance with the "Cash Management Improvement 38542  
Act of 1990," 104 Stat. 1061, 31 U.S.C.A. 335, 6503, shall deposit 38543  
amounts of interest earned by the state on funds in the benefit 38544  
account established pursuant to division (C) of this section into 38545  
the department of job and family services banking fees fund, which 38546  
is hereby created in the state treasury for the purpose of paying 38547  
related banking costs incurred by the state for the period for 38548  
which the interest is calculated, except that if the deposited 38549  
interest exceeds the banking costs incurred by the state for the 38550  
period for which the interest is calculated, the treasurer of 38551  
state shall deposit the excess interest into the unemployment 38552  
trust fund. 38553

(I) The treasurer of state, under the direction of the 38554

director, shall deposit federal funds received by the director for 38555  
the payment of benefits, job search, relocation, transportation, 38556  
and subsistence allowances pursuant to the "Trade Act of 1974," 88 38557  
Stat. 1978, 19 U.S.C.A. 2101, as amended; the "North American 38558  
Free Trade Implementation Act of 1993," 107 Stat. 2057, 19 38559  
U.S.C.A. 3301, as amended; and the "Trade Act of 2002," 116 Stat. 38560  
993, 19 U.S.C.A. 3801, as amended, into the Trade Act benefit 38561  
account, which is hereby created for the purpose of ~~paying for~~ 38562  
~~benefits, training, and support services~~ making payments specified 38563  
under ~~that act~~ those acts. 38564

(J) The treasurer of state, under the direction of the 38565  
director, shall deposit federal funds received by the director for 38566  
training and administration pursuant to the "Trade Act of 1974," 38567  
88 Stat. 1978, 19 U.S.C.A. 2101, as amended; the "North American 38568  
Free Trade Agreement Implementation Act," 107 Stat. 2057 (1993), 38569  
19 U.S.C.A. 3301, as amended; and the "Trade Act of 2002," 116 38570  
Stat. 993, 19 U.S.C.A. 3801, as amended, into the ~~North American~~ 38571  
~~Free Trade Act~~ training and administration account, which is 38572  
hereby created for the purpose of ~~paying for benefits, training,~~ 38573  
~~and support services~~ making payments specified under ~~that act~~ 38574  
those acts. 38575

**Sec. 4141.201.** (A) If an employer submits a form, report, 38576  
record, or makes any other filing required under this chapter and 38577  
the filing contains incorrect information, the employer shall not 38578  
be required to pay any penalty with respect to the submission, 38579  
provided that the employer has voluntarily identified and 38580  
corrected the incorrect information. 38581

(B) This section does not apply to any false information 38582  
knowingly included by the employer in a form, report, record, or 38583  
other filing for the principal purpose of avoiding any payment 38584  
required under this chapter. 38585

Sec. 4141.23. (A) Contributions shall accrue and become 38586  
payable by each employer for each calendar year or other period as 38587  
prescribed by this chapter. Such contributions become due and 38588  
shall be paid by each employer to the director of job and family 38589  
services for the unemployment compensation fund in accordance with 38590  
such regulations as the director prescribes, and shall not be 38591  
deducted, in whole or in part, from the remuneration of 38592  
individuals in the employer's employ. 38593

In the payment of any contributions, a fractional part of a 38594  
dollar may be disregarded unless it amounts to fifty cents or 38595  
more, in which case it may be increased to the next higher dollar. 38596

(B)(1) Any contribution or payment in lieu of contribution, 38597  
due from an employer on or before December 31, 1992, shall, if not 38598  
paid when due, bear interest at the rate of ten per cent per 38599  
annum. In such computation any fraction of a month shall be 38600  
considered as a full month. 38601

(2) Any contribution, payment in lieu of contribution, 38602  
interest, forfeiture, or fine due from an employer on or after 38603  
January 1, 1993, shall, if not paid when due, bear interest at the 38604  
annual rate of fourteen per cent compounded monthly on the 38605  
aggregate receivable balance due. In such computation any fraction 38606  
of a month shall be considered as a full month. 38607

(C) The director may waive the interest assessed under 38608  
division (B)(2) of this section if the employer meets all of the 38609  
following conditions within thirty days after the date the 38610  
director mails or delivers the notice of assessment of interest: 38611

(1) Provides to the director a written request for a waiver 38612  
of interest clearly demonstrating that the employer's failure to 38613  
timely pay contributions, payments in lieu of contributions, 38614  
interest, forfeiture, and fines was a result of circumstances 38615

beyond the control of the employer or the employer's agent, except 38616  
that negligence on the part of the employer or the employer's 38617  
agent shall not be considered beyond the control of the employer 38618  
or the employer's agent; 38619

(2) Furnishes to the director all quarterly reports required 38620  
under section 4141.20 of the Revised Code; 38621

(3) Pays in full all contributions, payments in lieu of 38622  
contributions, interest, forfeiture, and fines for each quarter 38623  
for which such payments are due. 38624

The director shall deny an employer's request for a waiver of 38625  
interest after finding that the employer's failure to timely 38626  
furnish reports or make payments as required under this chapter 38627  
was due to an attempt to evade payment. 38628

(D) Any contribution, interest, forfeiture, or fine required 38629  
to be paid under this chapter by any employer shall, if not paid 38630  
when due, become a lien upon the real and personal property of 38631  
such employer. Upon failure of such employer to pay the 38632  
contributions, interest, forfeiture, or fine required to be paid 38633  
under this chapter, the director shall file notice of such lien, 38634  
for which there shall be no charge, in the office of the county 38635  
recorder of the county in which it is ascertained that such 38636  
employer owns real estate or personal property. The director shall 38637  
notify the employer by mail of the lien. The absence of proof that 38638  
the notice was sent does not affect the validity of the lien. Such 38639  
lien shall not be valid as against the claim of any mortgagee, 38640  
pledgee, purchaser, judgment creditor, or other lienholder of 38641  
record at the time such notice is filed. 38642

If the employer acquires real or personal property after 38643  
notice of lien is filed, such lien shall not be valid as against 38644  
the claim of any mortgagee, pledgee, subsequent bona fide 38645  
purchaser for value, judgment creditor, or other lienholder of 38646

record to such after-acquired property, unless the notice of lien 38647  
is refiled after such property was acquired by the employer and 38648  
before the competing lien attached to such after-acquired property 38649  
or before the conveyance to such subsequent bona fide purchaser 38650  
for value. 38651

Such notice shall be recorded in a book kept by the recorder 38652  
called the "unemployment compensation lien record" and indexed 38653  
therein in an alphabetical index under the name of such employer. 38654  
When such unpaid contributions, interest, forfeiture, or fines 38655  
have been paid, the employer may record with the recorder of the 38656  
county in which such notice of lien has been filed and recorded, 38657  
notice of such payment. For recording ~~such~~ the notice of payment 38658  
the recorder shall charge and receive from the employer a base fee 38659  
of two dollars for services and a housing trust fund fee of two 38660  
dollars pursuant to section 317.36 of the Revised Code. 38661

(E) Notwithstanding other provisions in this section, the 38662  
director may reduce, in whole or in part, the amount of interest, 38663  
forfeiture, or fines required to be paid under this chapter if the 38664  
director determines that the reduction is in the best interest of 38665  
the unemployment compensation fund. 38666

(F) Assessment of contributions shall not be made after four 38667  
years from the date on which such contributions became payable, 38668  
and no action in court for the collection of contributions without 38669  
assessment of such contributions shall be begun after the 38670  
expiration of five years from the date such contributions became 38671  
payable. In case of a false or fraudulent report or of a willful 38672  
attempt in any manner to evade contributions, such contributions 38673  
may be assessed or a proceeding in court for the collection of 38674  
such contributions may be begun without assessment at any time. 38675  
When the assessment of contributions has been made within such 38676  
four-year period provided, action in court to collect such 38677  
contributions may be begun within, but not later than, six years 38678

after such assessment. 38679

(G) In the event of a distribution of an employer's assets, 38680  
pursuant to an order of any court under the law of this state, 38681  
including any receivership, assignment for benefit of creditors, 38682  
adjudicated insolvency, or similar proceedings, contributions, 38683  
interest, forfeiture, or fine then or thereafter due have the same 38684  
priority as provided by law for the payment of taxes due the state 38685  
and shall be paid out of the trust fund in the same manner as 38686  
provided for other claims for unpaid taxes due the state. 38687

(H) If the attorney general finds after investigation that 38688  
any claim for delinquent contributions, interest, forfeitures, or 38689  
fines owing to the director is uncollectible, in whole or in part, 38690  
the attorney general shall recommend to the director the 38691  
cancellation of such claim or any part thereof. The director may 38692  
thereupon effect such cancellation. 38693

**Sec. 4301.03.** The liquor control commission may adopt and 38694  
promulgate, repeal, rescind, and amend, in the manner required by 38695  
this section, rules, standards, requirements, and orders necessary 38696  
to carry out this chapter and Chapter 4303. of the Revised Code, 38697  
but all rules of the board of liquor control ~~which~~ that were in 38698  
effect immediately prior to April 17, 1963, shall remain in full 38699  
force and effect as rules of the liquor control commission until 38700  
and unless amended or repealed by the liquor control commission. 38701  
The rules of the commission may include the following: 38702

(A) Rules with reference to applications for and the issuance 38703  
of permits for the manufacture, distribution, transportation, and 38704  
sale of beer and intoxicating liquor, and the sale of alcohol; and 38705  
rules governing the procedure of the division of liquor control in 38706  
the suspension, revocation, and cancellation of those permits; 38707

(B) Rules and orders providing in detail for the conduct of 38708  
any retail business authorized under permits issued pursuant to 38709

this chapter and Chapter 4303. of the Revised Code, with a view to 38710  
ensuring compliance with those chapters and laws relative to them, 38711  
and the maintenance of public decency, sobriety, and good order in 38712  
any place licensed under the permits. No rule or order shall 38713  
prohibit the sale of lottery tickets issued pursuant to Chapter 38714  
3770. of the Revised Code by any retail business authorized under 38715  
permits issued pursuant to that chapter. 38716

No rule or order shall prohibit pari-mutuel wagering on 38717  
simulcast horse races at a satellite facility that has been issued 38718  
a D liquor permit under Chapter 4303. of the Revised Code. No rule 38719  
or order shall prohibit a charitable organization that holds a D-4 38720  
permit from selling or serving beer or intoxicating liquor under 38721  
its permit in a portion of its premises merely because that 38722  
portion of its premises is used at other times for the conduct of 38723  
a ~~charitable~~ bingo game, as described in division (S) of section 38724  
2915.01 of the Revised Code. However, such an organization shall 38725  
not sell or serve beer or intoxicating liquor or permit beer or 38726  
intoxicating liquor to be consumed or seen in the same location in 38727  
its premises where a ~~charitable~~ bingo game, as described in 38728  
division (S)(1) of section 2915.01 of the Revised Code, is being 38729  
conducted while the game is being conducted. As used in this 38730  
division, "charitable organization" has the same meaning as in 38731  
division (H) of section 2915.01 of the Revised Code, ~~and~~ 38732  
~~"charitable bingo game" has the same meaning as in division (R) of~~ 38733  
~~that section.~~ No rule or order pertaining to visibility into the 38734  
premises of a permit holder after the legal hours of sale shall be 38735  
adopted or maintained by the commission. 38736

(C) Standards, not in conflict with those prescribed by any 38737  
law of this state or the United States, to secure the use of 38738  
proper ingredients and methods in the manufacture of beer, mixed 38739  
beverages, and wine to be sold within this state; 38740

(D) Rules determining the nature, form, and capacity of all 38741

packages and bottles to be used for containing beer or 38742  
intoxicating liquor, except for spirituous liquor to be kept or 38743  
sold, governing the form of all seals and labels to be used on 38744  
those packages and bottles, and requiring the label on every 38745  
package, bottle, and container to state the ingredients in the 38746  
contents and, except on beer, the terms of weight, volume, or 38747  
proof spirits, and whether the same is beer, wine, alcohol, or any 38748  
intoxicating liquor except for spirituous liquor; 38749

(E) Uniform rules governing all advertising with reference to 38750  
the sale of beer and intoxicating liquor throughout the state and 38751  
advertising upon and in the premises licensed for the sale of beer 38752  
or intoxicating liquor; 38753

(F) Rules restricting and placing conditions upon the 38754  
transfer of permits; 38755

(G) Rules and orders limiting the number of permits of any 38756  
class within the state or within any political subdivision of the 38757  
state; and, for that purpose, adopting reasonable classifications 38758  
of persons or establishments to which any authorized class of 38759  
permits may be issued within any political subdivision; 38760

(H) Rules and orders with reference to sales of beer and 38761  
intoxicating liquor on Sundays and holidays and with reference to 38762  
the hours of the day during which and the persons to whom 38763  
intoxicating liquor of any class may be sold, and rules with 38764  
reference to the manner of sale; 38765

(I) Rules requiring permit holders buying beer to pay and 38766  
permit holders selling beer to collect minimum cash deposits for 38767  
kegs, cases, bottles, or other returnable containers of the beer; 38768  
requiring the repayment, or credit, of the minimum cash deposit 38769  
charges upon the return of the empty containers; and requiring the 38770  
posting of such form of indemnity or such other conditions with 38771  
respect to the charging, collection, and repayment of minimum cash 38772



deposit charges for returnable containers of beer as are necessary 38773  
to ensure the return of the empty containers or the repayment upon 38774  
that return of the minimum cash deposits paid; 38775

(J) Rules establishing the method by which alcohol products 38776  
may be imported for sale by wholesale distributors and the method 38777  
by which manufacturers and suppliers may sell alcohol products to 38778  
wholesale distributors. 38779

Every rule, standard, requirement, or order of the commission 38780  
and every repeal, amendment, or rescission of them shall be posted 38781  
for public inspection in the principal office of the commission 38782  
and the principal office of the division of liquor control, and a 38783  
certified copy of them shall be filed in the office of the 38784  
secretary of state. An order applying only to persons named in it 38785  
shall be served on the persons affected by personal delivery of a 38786  
certified copy, or by mailing a certified copy to each person 38787  
affected by it or, in the case of a corporation, to any officer or 38788  
agent of the corporation upon whom a service of summons may be 38789  
served in a civil action. The posting and filing required by this 38790  
section constitutes sufficient notice to all persons affected by 38791  
such rule or order which is not required to be served. General 38792  
rules of the commission promulgated pursuant to this section shall 38793  
be published in the manner the commission determines. 38794

**Sec. 4301.30.** All fees collected by the division of liquor 38795  
control shall be deposited in the state treasury to the credit of 38796  
the undivided liquor permit fund, which is hereby created, at the 38797  
time prescribed under section 4301.12 of the Revised Code. Each 38798  
payment shall be accompanied by a statement showing separately the 38799  
amount collected for each class of permits in each municipal 38800  
corporation and in each township outside the limits of any 38801  
municipal corporation in such township. An amount equal to fifty 38802  
dollars for each fee received for a D-2 permit, which is not 38803

placed in operation immediately upon a D-3 permit premises, and 38804  
twenty-five dollars for each fee received for a C-2 permit, shall 38805  
be paid from the undivided liquor permit fund into the general 38806  
revenue fund. 38807

Prior to the fees received for a D-2 permit, which is not in 38808  
operation immediately upon a D-3 permit premises, and a C-2 permit 38809  
being paid into the general revenue fund, an amount equal to 38810  
~~twenty-one~~ thirty-two and one-half per cent of the undivided 38811  
liquor permit fund shall be paid into the statewide treatment and 38812  
prevention fund, which is hereby created in the state treasury. 38813  
This amount shall be appropriated by the general assembly, 38814  
together with an amount equal to one and one-half per cent of the 38815  
gross profit of the department of liquor control derived under 38816  
division (B)(4) of section 4301.10 of the Revised Code, to the 38817  
department of alcohol and drug addiction services. In planning for 38818  
the allocation of and in allocating these amounts for the purposes 38819  
of Chapter 3793. of the Revised Code, the department of alcohol 38820  
and drug addiction services shall comply with the 38821  
nondiscrimination provisions of Title VI of the Civil Rights Act 38822  
of 1964, and any rules adopted thereunder. 38823

The moneys remaining in the undivided liquor permit fund 38824  
shall be distributed by the superintendent of liquor control at 38825  
quarterly calendar periods as follows: 38826

(A) To each municipal corporation, the aggregate amount shown 38827  
by the statements to have been collected from permits therein, for 38828  
the use of the general fund of the municipal corporation; 38829

(B) To each township, the aggregate amount shown by the 38830  
statements to have been collected from permits in its territory, 38831  
outside the limits of any municipal corporation located therein, 38832  
for the use of the general fund of the township, or for fire 38833  
protection purposes, including buildings and equipment in the 38834  
township or in an established fire district within the township, 38835

to the extent that the funds are derived from liquor permits 38836  
within the territory comprising such fire district. 38837

For the purpose of the distribution required by this section, 38838  
E, H, and D permits covering boats or vessels are deemed to have 38839  
been issued in the municipal corporation or township wherein the 38840  
owner or operator of the vehicle, boat, vessel, or dining car 38841  
equipment to which the permit relates has the owner's or 38842  
operator's principal office or place of business within the state. 38843

Such distributions are subject to diminutions for refunds as 38844  
prescribed in section 4301.41 of the Revised Code. If the liquor 38845  
control commission is of the opinion that the police or other 38846  
officers of any municipal corporation or township entitled to 38847  
share in such distribution are refusing or culpably neglecting to 38848  
enforce this chapter and Chapter 4303. of the Revised Code, or the 38849  
penal laws of this state relating to the manufacture, importation, 38850  
transportation, distribution, and sale of beer and intoxicating 38851  
liquors, or if the prosecuting officer of a municipal corporation 38852  
or the municipal court thereof fails to comply with the request of 38853  
the commission authorized by division (A)(4) of section 4301.10 of 38854  
the Revised Code, the commission by certified mail may notify the 38855  
chief executive officer of the municipal corporation or the board 38856  
of township trustees of the township of such failure and require 38857  
the immediate cooperation of the responsible officers of the 38858  
municipal corporation or township with the division of liquor 38859  
control in the enforcement of such chapters and such penal laws. 38860  
Within thirty days after the notice is served, the commission 38861  
shall determine whether or not the requirement has been complied 38862  
with. If the commission determines that the requirement has not 38863  
been complied with, it may issue an order to the superintendent to 38864  
withhold the distributive share of the municipal corporation or 38865  
township until further order of the commission. This action of the 38866  
commission is reviewable within thirty days thereafter in the 38867

court of common pleas of Franklin county. 38868

**Sec. 4303.02.** Permit A-1 may be issued to a manufacturer to 38869  
manufacture beer and sell beer products in bottles or containers 38870  
for home use and to retail and wholesale permit holders under 38871  
rules promulgated by the division of liquor control. The fee for 38872  
this permit is three thousand ~~one~~ nine hundred ~~twenty-five~~ six 38873  
dollars for each plant during the year covered by the permit. 38874

**Sec. 4303.021.** Permit A-1-A may be issued to the holder of an 38875  
A-1 or A-2 permit to sell beer and any intoxicating liquor at 38876  
retail, only by the individual drink in glass or from a container, 38877  
provided such A-1-A permit premises are situated on the same 38878  
parcel or tract of land as the related A-1 or A-2 manufacturing 38879  
permit premises or are separated therefrom only by public streets 38880  
or highways or by other lands owned by the holder of the A-1 or 38881  
A-2 permit and used by the holder in connection with or in 38882  
promotion of the holder's A-1 or A-2 permit business. The fee for 38883  
this permit is three thousand ~~one~~ nine hundred ~~twenty-five~~ six 38884  
dollars. The holder of an A-1-A permit may sell beer and any 38885  
intoxicating liquor during the same hours as the holders of D-5 38886  
permits under this chapter or Chapter 4301. of the Revised Code or 38887  
the rules of the liquor control commission and shall obtain a 38888  
license as a retail food establishment or a food service operation 38889  
pursuant to Chapter 3717. of the Revised Code and operate as a 38890  
restaurant for purposes of this chapter. 38891

Except as otherwise provided in this section, no new A-1-A 38892  
permit shall be issued to the holder of an A-1 or A-2 permit 38893  
unless the sale of beer and intoxicating liquor under class D 38894  
permits is permitted in the precinct in which the A-1 or A-2 38895  
permit is located and, in the case of an A-2 permit, unless the 38896  
holder of the A-2 permit manufactures or has a storage capacity of 38897  
at least twenty-five thousand gallons of wine per year. The 38898

immediately preceding sentence does not prohibit the issuance of 38899  
an A-1-A permit to an applicant for such a permit who is the 38900  
holder of an A-1 permit and whose application was filed with the 38901  
division of liquor control before June 1, 1994. The liquor control 38902  
commission shall not restrict the number of A-1-A permits which 38903  
may be located within a precinct. 38904

**Sec. 4303.03.** Permit A-2 may be issued to a manufacturer to 38905  
manufacture wine from grapes or other fruits grown in the state, 38906  
if obtainable, otherwise to import such fruits after submitting an 38907  
affidavit of nonavailability to the division of liquor control; to 38908  
import and purchase wine in bond for blending purposes, the total 38909  
amount of wine so imported during the year covered by the permit 38910  
not to exceed forty per cent of all the wine manufactured and 38911  
imported; to manufacture, purchase, and import brandy for 38912  
fortifying purposes; and to sell such products either in glass or 38913  
container for consumption on the premises where manufactured, for 38914  
home use, and to retail and wholesale permit holders under such 38915  
rules as are adopted by the division. 38916

The fee for this permit is ~~sixty-three~~ one hundred twenty-six 38917  
dollars for each plant producing one hundred wine barrels, of 38918  
fifty gallons each, or less annually. ~~Such~~ This initial fee shall 38919  
be increased at the rate of ten cents per such barrel for all wine 38920  
manufactured in excess of one hundred barrels during the year 38921  
covered by the permit. 38922

**Sec. 4303.04.** Permit A-3 may be issued to a manufacturer to 38923  
manufacture alcohol and spirituous liquor and sell such products 38924  
to the division of liquor control or to the holders of a like 38925  
permit or to the holders of A-4 permits for blending or 38926  
manufacturing purposes; to import alcohol into this state upon 38927  
such terms as are prescribed by the division; to sell alcohol to 38928  
manufacturers, hospitals, infirmaries, medical or educational 38929

institutions using it for medicinal, mechanical, chemical, or 38930  
scientific purposes, and to holders of I permits; to import into 38931  
this state spirituous liquor and wine for blending or other 38932  
manufacturing purposes; and to export spirituous liquor from this 38933  
state for sale outside the state. 38934

The fee for this permit is three thousand ~~one~~ nine hundred 38935  
~~twenty-five~~ six dollars for each plant; but, if a plant's 38936  
production capacity is less than five hundred wine barrels of 38937  
fifty gallons each, annually, the fee is two dollars per barrel. 38938

**Sec. 4303.05.** Permit A-4 may be issued to a manufacturer to 38939  
manufacture prepared highballs, cocktails, cordials, and other 38940  
mixed drinks containing not less than four per cent of alcohol by 38941  
volume and not more than twenty-one per cent of alcohol by volume, 38942  
and to sell such products to wholesale and retail permit holders 38943  
in sealed containers only under such rules as are adopted by the 38944  
division of liquor control. The holder of such permit may import 38945  
into the state spirituous liquor and wine only for blending or 38946  
other manufacturing purposes under such rules as are prescribed by 38947  
the division. 38948

The holder of such permit may also purchase spirituous liquor 38949  
for manufacturing and blending purposes from the holder of an A-3 38950  
permit issued by the division. The formulas and the beverages 38951  
manufactured by the holder of an A-4 permit ~~must~~ shall be 38952  
submitted to the division for its analysis and approval before 38953  
~~such~~ the beverages may be sold to or distributed in this state by 38954  
holders of retail and wholesale permits. All labels and 38955  
advertising matter used by the holders of ~~such~~ A-4 permits ~~must~~ 38956  
shall be approved by the division before they may be used in this 38957  
state. The fee for ~~this~~ an A-4 permit is three thousand ~~one~~ nine 38958  
hundred ~~twenty-five~~ six dollars for each plant. 38959

**Sec. 4303.06.** Permit B-1 may be issued to a wholesale distributor of beer to purchase from the holders of A-1 permits and to import and distribute or sell beer for home use and to retail permit holders under rules adopted by the division of liquor control. The fee for this permit is ~~two~~ three thousand ~~five~~ one hundred twenty-five dollars for each distributing plant or warehouse during the year covered by the permit.

**Sec. 4303.07.** Permit B-2 may be issued to a wholesale distributor of wine to purchase from holders of A-2 and B-5 permits and distribute or sell such product, in the original container in which it was placed by the B-5 permit holder or manufacturer at the place where manufactured, to A-1-A, C-2, D-2, D-3, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, and E permit holders, and for home use. The fee for this permit is ~~two~~ five hundred ~~fifty~~ dollars for each distributing plant or warehouse. The initial fee shall be increased ten cents per wine barrel of fifty gallons for all wine distributed and sold in this state in excess of twelve hundred fifty such barrels during the year covered by the permit.

**Sec. 4303.08.** Permit B-3 may be issued to a wholesale distributor of wine to bottle, distribute, or sell sacramental wine for religious rites upon an application signed, dated, and approved as required by section 4301.23 of the Revised Code. The fee for this permit is ~~sixty-two~~ one hundred twenty-four dollars.

**Sec. 4303.09.** Permit B-4 may be issued to a wholesale distributor to purchase from the holders of A-4 permits and to import, distribute, and sell prepared and bottled highballs, cocktails, cordials, and other mixed beverages containing not less than four per cent of alcohol by volume and not more than

twenty-one per cent of alcohol by volume to retail permit holders, 38989  
and for home use, under ~~such~~ rules ~~as are~~ adopted by the division 38990  
of liquor control. The formula and samples of all such beverages 38991  
to be handled by the permit holder ~~must~~ shall be submitted to the 38992  
division for analysis and the approval of the division before such 38993  
beverages may be sold and distributed in this state. All labels 38994  
and advertising matter used by the holders of ~~such permits must~~ 38995  
this permit shall be approved by the division before they may be 38996  
used in this state. The fee for this permit shall be computed on 38997  
the basis of annual sales, and the initial fee is ~~two~~ five hundred 38998  
~~fifty~~ dollars for each distributing plant or warehouse. ~~Such~~ The 38999  
initial fee shall be increased at the rate of ten cents per wine 39000  
barrel of fifty gallons for all such beverages distributed and 39001  
sold in this state in excess of one thousand such barrels during 39002  
the year covered by the permit. 39003

**Sec. 4303.10.** Permit B-5 may be issued to a wholesale 39004  
distributor of wine to purchase wine from the holders of A-2 39005  
permits, to purchase and import wine in bond or otherwise, in bulk 39006  
or in containers of any size, and to bottle wine for distribution 39007  
and sale to holders of A-1-A, B-2, B-3, B-5, C-2, D-2, D-3, D-4, 39008  
D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, 39009  
D-5j, D-5k, and E permits and for home use in sealed containers. 39010  
No wine shall be bottled by a B-5 permit holder in containers 39011  
supplied by any person who intends the wine for home use. The fee 39012  
for this permit is one thousand ~~two~~ five hundred ~~fifty~~ sixty-three 39013  
dollars. 39014

**Sec. 4303.11.** Permit C-1 may be issued to the owner or 39015  
operator of a retail store to sell beer in containers and not for 39016  
consumption on the premises where sold in original containers 39017  
having a capacity of not more than five and one-sixth gallons. The 39018  
fee for this permit is ~~one~~ two hundred ~~twenty-six~~ fifty-two 39019



dollars for each location. 39020

**Sec. 4303.12.** Permit C-2 may be issued to the owner or 39021  
operator of a retail store to sell wine in sealed containers only 39022  
and not for consumption on the premises where sold in original 39023  
containers. The holder of ~~such~~ this permit may also sell and 39024  
distribute in original packages and not for consumption on the 39025  
premises where sold or for resale, prepared and bottled highballs, 39026  
cocktails, cordials, and other mixed beverages manufactured and 39027  
distributed by holders of A-4 and B-4 permits, and containing not 39028  
less than four per cent of alcohol by volume, and not more than 39029  
twenty-one per cent of alcohol by volume. The fee for this permit 39030  
is ~~one three hundred eighty-eight~~ seventy-six dollars for each 39031  
location. 39032

**Sec. 4303.121.** Effective October 1, 1982, permit C-2x shall 39033  
be issued to the holder of a C-2 permit who does not also hold a 39034  
C-1 permit, to sell beer only not for consumption on the premises 39035  
where sold, in original containers having a capacity of not more 39036  
than five and one-sixth gallons. Applicants for a C-2 permit as of 39037  
October 1, 1982 shall be issued a C-2x permit subject to the 39038  
restrictions for the issuance of the C-2 permit. The fee for a 39039  
C-2x permit is ~~one two hundred twenty-six~~ fifty-two dollars. 39040

**Sec. 4303.13.** Permit D-1 may be issued to the owner or 39041  
operator of a hotel ~~or~~ of a retail food establishment or a food 39042  
service operation licensed pursuant to Chapter 3717. of the 39043  
Revised Code that operates as a restaurant for purposes of this 39044  
chapter, or of a club, amusement park, drugstore, lunch stand, 39045  
boat, or vessel, ~~and shall be issued to a person described in~~ 39046  
~~division (B) of this section,~~ to sell beer at retail either in 39047  
glass or container, for consumption on the premises where sold; 39048  
~~and, except as otherwise provided in division (B) of this section,~~ 39049

to sell beer at retail in other receptacles or in original 39050  
containers having a capacity of not more than five and one-sixth 39051  
gallons not for consumption on the premises where sold. The fee 39052  
for this permit is ~~one~~ three hundred ~~eighty-eight~~ seventy-six 39053  
dollars for each location, boat, or vessel. 39054

**Sec. 4303.14.** Permit D-2 may be issued to the owner or 39055  
operator of a hotel ~~or~~ of a retail food establishment or a food 39056  
service operation licensed pursuant to Chapter 3717. of the 39057  
Revised Code that operates as a restaurant for purposes of this 39058  
chapter, or of a club, boat, or vessel, to sell wine and prepared 39059  
and bottled cocktails, cordials, and other mixed beverages 39060  
manufactured and distributed by holders of A-4 and B-4 permits at 39061  
retail, either in glass or container, for consumption on the 39062  
premises where sold. The holder of ~~such~~ this permit may also sell 39063  
wine and prepared and bottled cocktails, cordials, and other mixed 39064  
beverages in original packages and not for consumption on the 39065  
premises where sold or for resale. The fee for this permit is ~~two~~ 39066  
five hundred ~~eighty-two~~ sixty-four dollars for each location, 39067  
boat, or vessel. 39068

**Sec. 4303.141.** Effective October 1, 1982, permit D-2x shall 39069  
be issued to the holder of a D-2 permit who does not also hold a 39070  
D-1 permit, to sell beer at retail either in glass or container 39071  
for consumption on the premises where sold and to sell beer at 39072  
retail in other receptacles or original containers having a 39073  
capacity of not more than five and one-sixth gallons not for 39074  
consumption on the premises where sold. Applicants for a D-2 39075  
permit as of October 1, 1982, shall be issued a D-2x permit 39076  
subject to the quota restrictions for the issuance of the D-2 39077  
permit. The fee for a D-2x permit is ~~one~~ three hundred 39078  
~~eighty-eight~~ seventy-six dollars. 39079

**Sec. 4303.15.** Permit D-3 may be issued to the owner or operator of a hotel ~~or~~ of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter, or of a club, boat, or vessel, to sell spirituous liquor at retail, only by the individual drink in glass or from the container, for consumption on the premises where sold. No sales of intoxicating liquor shall be made by a holder of a D-3 permit after one a.m. The fee for this permit is ~~six~~ seven hundred fifty dollars for each location, boat, or vessel.

**Sec. 4303.151.** On October 1, 1982, permit D-3x shall be issued to the holder of a D-3 permit, to sell wine by the individual drink in glass or from the container, for consumption on the premises where sold. Applications for a D-3 permit on October 1, 1982, may be issued a D-3x permit subject to the quota restrictions for the issuance of a D-3 permit. The fee for a D-3x permit is ~~one~~ three hundred fifty dollars.

**Sec. 4303.16.** Permit D-3a may be issued to the holder of a D-3 permit whenever ~~his~~ the holder's place of business is operated after one a.m. and spirituous liquor is sold or consumed after ~~such~~ that hour. The holder of such permit may sell spirituous liquor during the same hours as the holders of D-5 permits under this chapter and Chapter 4301. of the Revised Code or the rules of the liquor control commission. The fee for a D-3a permit is ~~seven~~ nine hundred ~~fifty~~ thirty-eight dollars in addition to the fee required for a D-3 permit.

If the holder of a D-3a permit is also the holder of a D-1 permit, ~~he~~ the holder may sell beer after one a.m. and during the same hours as the holder of a D-5 permit. If the holder of a D-3a permit is also the holder of a D-2 permit, ~~he~~ the holder may sell

intoxicating liquor after one a.m. and during the same hours as 39110  
the holder of a D-5 permit. The holder of a D-3a permit may 39111  
furnish music and entertainment to ~~his~~ the holder's patrons, 39112  
subject to the same rules as govern D-5 permit holders. 39113

**Sec. 4303.17.** Permit D-4 may be issued to a club ~~which~~ that 39114  
has been in existence for three years or more prior to the 39115  
issuance of ~~such~~ the permit to sell beer and any intoxicating 39116  
liquor to its members only, in glass or container, for consumption 39117  
on the premises where sold. The fee for this permit is ~~three~~ four 39118  
hundred ~~seventy-five~~ sixty-nine dollars. No such permit shall be 39119  
granted or retained until all elected officers of such 39120  
organization controlling such club have filed with the division of 39121  
liquor control a statement certifying that such club is operated 39122  
in the interest of the membership of a reputable organization, 39123  
which is maintained by a dues paying membership, setting forth the 39124  
amount of initiation fee and yearly dues. All such matters shall 39125  
be contained in a statement signed under oath and accompanied by a 39126  
surety bond in the sum of one thousand dollars. Such bond shall be 39127  
declared forfeited in the full amount of the penal sum of the bond 39128  
for any false statement contained in such certificate and the 39129  
surety shall pay the amount of the bond to the division. The 39130  
roster of membership of a D-4 permit holder shall be submitted 39131  
under oath on the request of the superintendent of liquor control. 39132  
Any information acquired by the superintendent or the division 39133  
with respect to such membership shall not be open to public 39134  
inspection or examination and may be divulged by the 39135  
superintendent and the division only in hearings before the liquor 39136  
control commission or in a court action in which the division or 39137  
the superintendent is named a party. 39138

The requirement that a club shall have been in existence for 39139  
three years in order to qualify for a D-4 permit does not apply to 39140  
units of organizations chartered by congress or to a subsidiary 39141

unit of a national fraternal organization if the parent 39142  
organization has been in existence for three years or more at the 39143  
time application for a permit is made by such unit. 39144

No rule or order of the division or commission shall prohibit 39145  
a charitable organization that holds a D-4 permit from selling or 39146  
serving beer or intoxicating liquor under its permit in a portion 39147  
of its premises merely because that portion of its premises is 39148  
used at other times for the conduct of a ~~charitable~~ bingo game as 39149  
described in division (S) of section 2915.01 of the Revised Code. 39150  
However, such an organization shall not sell or serve beer or 39151  
intoxicating liquor or permit beer or intoxicating liquor to be 39152  
consumed or seen in the same location in its premises where a 39153  
~~charitable~~ bingo game, as described in division (S)(1) of section 39154  
2915.01 of the Revised Code, is being conducted while the game is 39155  
being conducted. As used in this section, "charitable 39156  
organization" has the same meaning as in division (H) of section 39157  
2915.01 ~~and "charitable bingo game" has the same meaning as in~~ 39158  
~~division (R) of section 2915.01~~ of the Revised Code. 39159

**Sec. 4303.171.** Permit D-4a may be issued to an airline 39160  
company ~~which~~ that leases and operates a premises exclusively for 39161  
the benefit of the members and their guests of a private club 39162  
sponsored by the airline company, at a publicly owned airport, as 39163  
defined in section 4563.01 of the Revised Code, at which 39164  
commercial airline companies operate regularly scheduled flights 39165  
on which space is available to the public, to sell beer and any 39166  
intoxicating liquor to members of the private club and their 39167  
guests, only by the individual drink in glass and from the 39168  
container, for consumption on the premises where sold. In addition 39169  
to the privileges authorized in this section, the holder of a D-4a 39170  
permit may exercise the same privileges as a holder of a D-4 39171  
permit. The holder of a D-4a permit shall make no sales of beer or 39172  
intoxicating liquor after two-thirty a.m. 39173

A D-4a permit shall not be transferred to another location. 39174  
No quota restriction shall be placed upon the number of such 39175  
permits which may be issued. 39176

The fee for this permit is ~~six~~ seven hundred fifty dollars. 39177

**Sec. 4303.18.** Permit D-5 may be issued to the owner or 39178  
operator of a retail food establishment or a food service 39179  
operation licensed pursuant to Chapter 3717. of the Revised Code 39180  
that operates as a restaurant or night club for purposes of this 39181  
chapter, to sell beer and any intoxicating liquor at retail, only 39182  
by the individual drink in glass and from the container, for 39183  
consumption on the premises where sold, and to sell the same 39184  
products in the same manner and amounts not for consumption on the 39185  
premises as may be sold by holders of D-1 and D-2 permits. A 39186  
person who is the holder of both a D-3 and D-3a permit need not 39187  
obtain a D-5 permit. The fee for this permit is ~~one~~ two thousand 39188  
~~eight~~ three hundred ~~seventy-five~~ forty-four dollars. 39189

**Sec. 4303.181.** (A) Permit D-5a may be issued either to the 39190  
owner or operator of a hotel or motel that is required to be 39191  
licensed under section 3731.03 of the Revised Code, that contains 39192  
at least fifty rooms for registered transient guests, and that 39193  
qualifies under the other requirements of this section, or to the 39194  
owner or operator of a restaurant specified under this section, to 39195  
sell beer and any intoxicating liquor at retail, only by the 39196  
individual drink in glass and from the container, for consumption 39197  
on the premises where sold, and to registered guests in their 39198  
rooms, which may be sold by means of a controlled access alcohol 39199  
and beverage cabinet in accordance with division (B) of section 39200  
4301.21 of the Revised Code; and to sell the same products in the 39201  
same manner and amounts not for consumption on the premises as may 39202  
be sold by holders of D-1 and D-2 permits. The premises of the 39203

hotel or motel shall include a retail food establishment or a food 39204  
service operation licensed pursuant to Chapter 3717. of the 39205  
Revised Code that operates as a restaurant for purposes of this 39206  
chapter and that is affiliated with the hotel or motel and within 39207  
or contiguous to the hotel or motel, and that serves food within 39208  
the hotel or motel, but the principal business of the owner or 39209  
operator of the hotel or motel shall be the accommodation of 39210  
transient guests. In addition to the privileges authorized in this 39211  
division, the holder of a D-5a permit may exercise the same 39212  
privileges as the holder of a D-5 permit. 39213

The owner or operator of a hotel, motel, or restaurant who 39214  
qualified for and held a D-5a permit on August 4, 1976, may, if 39215  
the owner or operator held another permit before holding a D-5a 39216  
permit, either retain a D-5a permit or apply for the permit 39217  
formerly held, and the division of liquor control shall issue the 39218  
permit for which the owner or operator applies and formerly held, 39219  
notwithstanding any quota. 39220

A D-5a permit shall not be transferred to another location. 39221  
No quota restriction shall be placed on the number of such permits 39222  
that may be issued. 39223

The fee for this permit is ~~one~~ two thousand ~~eight~~ three 39224  
hundred ~~seventy-five~~ forty-four dollars. 39225

(B) Permit D-5b may be issued to the owner, operator, tenant, 39226  
lessee, or occupant of an enclosed shopping center to sell beer 39227  
and intoxicating liquor at retail, only by the individual drink in 39228  
glass and from the container, for consumption on the premises 39229  
where sold; and to sell the same products in the same manner and 39230  
amount not for consumption on the premises as may be sold by 39231  
holders of D-1 and D-2 permits. In addition to the privileges 39232  
authorized in this division, the holder of a D-5b permit may 39233  
exercise the same privileges as a holder of a D-5 permit. 39234

A D-5b permit shall not be transferred to another location. 39235

One D-5b permit may be issued at an enclosed shopping center 39236  
containing at least two hundred twenty-five thousand, but less 39237  
than four hundred thousand, square feet of floor area. 39238

Two D-5b permits may be issued at an enclosed shopping center 39239  
containing at least four hundred thousand square feet of floor 39240  
area. No more than one D-5b permit may be issued at an enclosed 39241  
shopping center for each additional two hundred thousand square 39242  
feet of floor area or fraction of that floor area, up to a maximum 39243  
of five D-5b permits for each enclosed shopping center. The number 39244  
of D-5b permits that may be issued at an enclosed shopping center 39245  
shall be determined by subtracting the number of D-3 and D-5 39246  
permits issued in the enclosed shopping center from the number of 39247  
D-5b permits that otherwise may be issued at the enclosed shopping 39248  
center under the formulas provided in this division. Except as 39249  
provided in this section, no quota shall be placed on the number 39250  
of D-5b permits that may be issued. Notwithstanding any quota 39251  
provided in this section, the holder of any D-5b permit first 39252  
issued in accordance with this section is entitled to its renewal 39253  
in accordance with section 4303.271 of the Revised Code. 39254

The holder of a D-5b permit issued before April 4, 1984, 39255  
whose tenancy is terminated for a cause other than nonpayment of 39256  
rent, may return the D-5b permit to the division of liquor 39257  
control, and the division shall cancel that permit. Upon 39258  
cancellation of that permit and upon the permit holder's payment 39259  
of taxes, contributions, premiums, assessments, and other debts 39260  
owing or accrued upon the date of cancellation to this state and 39261  
its political subdivisions and a filing with the division of a 39262  
certification of that payment, the division shall issue to that 39263  
person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as 39264  
that person requests. The division shall issue the D-5 permit, or 39265  
the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, 39266



D-3, or D-5 permits currently issued in the municipal corporation 39267  
or in the unincorporated area of the township where that person's 39268  
proposed premises is located equals or exceeds the maximum number 39269  
of such permits that can be issued in that municipal corporation 39270  
or in the unincorporated area of that township under the 39271  
population quota restrictions contained in section 4303.29 of the 39272  
Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not 39273  
be transferred to another location. If a D-5b permit is canceled 39274  
under the provisions of this paragraph, the number of D-5b permits 39275  
that may be issued at the enclosed shopping center for which the 39276  
D-5b permit was issued, under the formula provided in this 39277  
division, shall be reduced by one if the enclosed shopping center 39278  
was entitled to more than one D-5b permit under the formula. 39279

The fee for this permit is ~~one~~ two thousand ~~eight~~ three 39280  
hundred ~~seventy-five~~ forty-four dollars. 39281

(C) Permit D-5c may be issued to the owner or operator of a 39282  
retail food establishment or a food service operation licensed 39283  
pursuant to Chapter 3717. of the Revised Code that operates as a 39284  
restaurant for purposes of this chapter and that qualifies under 39285  
the other requirements of this section to sell beer and any 39286  
intoxicating liquor at retail, only by the individual drink in 39287  
glass and from the container, for consumption on the premises 39288  
where sold, and to sell the same products in the same manner and 39289  
amounts not for consumption on the premises as may be sold by 39290  
holders of D-1 and D-2 permits. In addition to the privileges 39291  
authorized in this division, the holder of a D-5c permit may 39292  
exercise the same privileges as the holder of a D-5 permit. 39293

To qualify for a D-5c permit, the owner or operator of a 39294  
retail food establishment or a food service operation licensed 39295  
pursuant to Chapter 3717. of the Revised Code that operates as a 39296  
restaurant for purposes of this chapter, shall have operated the 39297  
restaurant at the proposed premises for not less than twenty-four 39298

consecutive months immediately preceding the filing of the 39299  
application for the permit, have applied for a D-5 permit no later 39300  
than December 31, 1988, and appear on the division's quota waiting 39301  
list for not less than six months immediately preceding the filing 39302  
of the application for the permit. In addition to these 39303  
requirements, the proposed D-5c permit premises shall be located 39304  
within a municipal corporation and further within an election 39305  
precinct that, at the time of the application, has no more than 39306  
twenty-five per cent of its total land area zoned for residential 39307  
use. 39308

A D-5c permit shall not be transferred to another location. 39309  
No quota restriction shall be placed on the number of such permits 39310  
that may be issued. 39311

Any person who has held a D-5c permit for at least two years 39312  
may apply for a D-5 permit, and the division of liquor control 39313  
shall issue the D-5 permit notwithstanding the quota restrictions 39314  
contained in section 4303.29 of the Revised Code or in any rule of 39315  
the liquor control commission. 39316

The fee for this permit is one thousand ~~two~~ five hundred 39317  
fifty sixty-three dollars. 39318

(D) Permit D-5d may be issued to the owner or operator of a 39319  
retail food establishment or a food service operation licensed 39320  
pursuant to Chapter 3717. of the Revised Code that operates as a 39321  
restaurant for purposes of this chapter and that is located at an 39322  
airport operated by a board of county commissioners pursuant to 39323  
section 307.20 of the Revised Code, at an airport operated by a 39324  
port authority pursuant to Chapter 4582. of the Revised Code, or 39325  
at an airport operated by a regional airport authority pursuant to 39326  
Chapter 308. of the Revised Code. The holder of a D-5d permit may 39327  
sell beer and any intoxicating liquor at retail, only by the 39328  
individual drink in glass and from the container, for consumption 39329  
on the premises where sold, and may sell the same products in the 39330

same manner and amounts not for consumption on the premises where 39331  
sold as may be sold by the holders of D-1 and D-2 permits. In 39332  
addition to the privileges authorized in this division, the holder 39333  
of a D-5d permit may exercise the same privileges as the holder of 39334  
a D-5 permit. 39335

A D-5d permit shall not be transferred to another location. 39336  
No quota restrictions shall be placed on the number of such 39337  
permits that may be issued. 39338

The fee for this permit is ~~one~~ two thousand ~~eight~~ three 39339  
hundred ~~seventy-five~~ forty-four dollars. 39340

(E) Permit D-5e may be issued to any nonprofit organization 39341  
that is exempt from federal income taxation under the "Internal 39342  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 39343  
amended, or that is a charitable organization under any chapter of 39344  
the Revised Code, and that owns or operates a riverboat that meets 39345  
all of the following: 39346

(1) Is permanently docked at one location; 39347

(2) Is designated as an historical riverboat by the Ohio 39348  
historical society; 39349

(3) Contains not less than fifteen hundred square feet of 39350  
floor area; 39351

(4) Has a seating capacity of fifty or more persons. 39352

The holder of a D-5e permit may sell beer and intoxicating 39353  
liquor at retail, only by the individual drink in glass and from 39354  
the container, for consumption on the premises where sold. 39355

A D-5e permit shall not be transferred to another location. 39356  
No quota restriction shall be placed on the number of such permits 39357  
that may be issued. The population quota restrictions contained in 39358  
section 4303.29 of the Revised Code or in any rule of the liquor 39359  
control commission shall not apply to this division, and the 39360

division shall issue a D-5e permit to any applicant who meets the 39361  
requirements of this division. However, the division shall not 39362  
issue a D-5e permit if the permit premises or proposed permit 39363  
premises are located within an area in which the sale of 39364  
spirituous liquor by the glass is prohibited. 39365

The fee for this permit is ~~nine~~ one thousand two hundred 39366  
~~seventy-five~~ nineteen dollars. 39367

(F) Permit D-5f may be issued to the owner or operator of a 39368  
retail food establishment or a food service operation licensed 39369  
under Chapter 3717. of the Revised Code that operates as a 39370  
restaurant for purposes of this chapter and that meets all of the 39371  
following: 39372

(1) It contains not less than twenty-five hundred square feet 39373  
of floor area. 39374

(2) It is located on or in, or immediately adjacent to, the 39375  
shoreline of, a navigable river. 39376

(3) It provides docking space for twenty-five boats. 39377

(4) It provides entertainment and recreation, provided that 39378  
not less than fifty per cent of the business on the permit 39379  
premises shall be preparing and serving meals for a consideration. 39380

In addition, each application for a D-5f permit shall be 39381  
accompanied by a certification from the local legislative 39382  
authority that the issuance of the D-5f permit is not inconsistent 39383  
with that political subdivision's comprehensive development plan 39384  
or other economic development goal as officially established by 39385  
the local legislative authority. 39386

The holder of a D-5f permit may sell beer and intoxicating 39387  
liquor at retail, only by the individual drink in glass and from 39388  
the container, for consumption on the premises where sold. 39389

A D-5f permit shall not be transferred to another location. 39390

The division of liquor control shall not issue a D-5f permit 39391  
if the permit premises or proposed permit premises are located 39392  
within an area in which the sale of spirituous liquor by the glass 39393  
is prohibited. 39394

A fee for this permit is ~~one~~ two thousand ~~eight~~ three hundred 39395  
~~seventy-five~~ forty-four dollars. 39396

As used in this division, "navigable river" means a river 39397  
that is also a "navigable water" as defined in the "Federal Power 39398  
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 39399

(G) Permit D-5g may be issued to a nonprofit corporation that 39400  
is either the owner or the operator of a national professional 39401  
sports museum. The holder of a D-5g permit may sell beer and any 39402  
intoxicating liquor at retail, only by the individual drink in 39403  
glass and from the container, for consumption on the premises 39404  
where sold. The holder of a D-5g permit shall sell no beer or 39405  
intoxicating liquor for consumption on the premises where sold 39406  
after one a.m. A D-5g permit shall not be transferred to another 39407  
location. No quota restrictions shall be placed on the number of 39408  
D-5g permits that may be issued. The fee for this permit is one 39409  
thousand ~~five~~ eight hundred ~~seventy-five~~ dollars. 39410

(H) Permit D-5h may be issued to any nonprofit organization 39411  
that is exempt from federal income taxation under the "Internal 39412  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 39413  
amended, that owns or operates a fine arts museum and has no less 39414  
than five thousand bona fide members possessing full membership 39415  
privileges. The holder of a D-5h permit may sell beer and any 39416  
intoxicating liquor at retail, only by the individual drink in 39417  
glass and from the container, for consumption on the premises 39418  
where sold. The holder of a D-5h permit shall sell no beer or 39419  
intoxicating liquor for consumption on the premises where sold 39420  
after one a.m. A D-5h permit shall not be transferred to another 39421

location. No quota restrictions shall be placed on the number of 39422  
D-5h permits that may be issued. The fee for this permit is one 39423  
thousand ~~five~~ eight hundred seventy-five dollars. 39424

(I) Permit D-5i may be issued to the owner or operator of a 39425  
retail food establishment or a food service operation licensed 39426  
under Chapter 3717. of the Revised Code that operates as a 39427  
restaurant for purposes of this chapter and that meets all of the 39428  
following requirements: 39429

(1) It is located in a municipal corporation or a township 39430  
with a population of fifty thousand or less. 39431

(2) It has inside seating capacity for at least one hundred 39432  
forty persons. 39433

(3) It has at least four thousand square feet of floor area. 39434

(4) It offers full-course meals, appetizers, and sandwiches. 39435

(5) Its receipts from beer and liquor sales do not exceed 39436  
twenty-five per cent of its total gross receipts. 39437

(6) The value of its real and personal property exceeds seven 39438  
hundred twenty-five thousand dollars. 39439

The holder of a D-5i permit shall cause an independent audit 39440  
to be performed at the end of one full year of operation following 39441  
issuance of the permit in order to verify the requirements of 39442  
division (I)(5) of this section. The results of the independent 39443  
audit shall be transmitted to the division. Upon determining that 39444  
the receipts of the holder from beer and liquor sales exceeded 39445  
twenty-five per cent of its total gross receipts, the division 39446  
shall suspend the permit of the permit holder under section 39447  
4301.25 of the Revised Code and may allow the permit holder to 39448  
elect a forfeiture under section 4301.252 of the Revised Code. 39449

The holder of a D-5i permit may sell beer and any 39450  
intoxicating liquor at retail, only by the individual drink in 39451

glass and from the container, for consumption on the premises 39452  
where sold, and may sell the same products in the same manner and 39453  
amounts not for consumption on the premises where sold as may be 39454  
sold by the holders of D-1 and D-2 permits. The holder of a D-5i 39455  
permit shall sell no beer or intoxicating liquor for consumption 39456  
on the premises where sold after two-thirty a.m. In addition to 39457  
the privileges authorized in this division, the holder of a D-5i 39458  
permit may exercise the same privileges as the holder of a D-5 39459  
permit. 39460

A D-5i permit shall not be transferred to another location. 39461  
The division of liquor control shall not renew a D-5i permit 39462  
unless the food service operation for which it is issued continues 39463  
to meet the requirements described in divisions (I)(1) to (6) of 39464  
this section. No quota restrictions shall be placed on the number 39465  
of D-5i permits that may be issued. The fee for this permit is ~~one~~ 39466  
two thousand eight ~~three~~ hundred ~~seventy-five~~ forty-four dollars. 39467

(J)(1) Permit D-5j may be issued to the owner or the operator 39468  
of a retail food establishment or a food service operation 39469  
licensed under Chapter 3717. of the Revised Code to sell beer and 39470  
intoxicating liquor at retail, only by the individual drink in 39471  
glass and from the container, for consumption on the premises 39472  
where sold and to sell beer and intoxicating liquor in the same 39473  
manner and amounts not for consumption on the premises where sold 39474  
as may be sold by the holders of D-1 and D-2 permits. The holder 39475  
of a D-5j permit may exercise the same privileges, and shall 39476  
observe the same hours of operation, as the holder of a D-5 39477  
permit. 39478

(2) The D-5j permit shall be issued only within a community 39479  
entertainment district that is designated under section 4301.80 of 39480  
the Revised Code and that is located in a municipal corporation 39481  
with a population of at least one hundred thousand. 39482

(3) The location of a D-5j permit may be transferred only 39483

within the geographic boundaries of the community entertainment 39484  
district in which it was issued and shall not be transferred 39485  
outside the geographic boundaries of that district. 39486

(4) Not more than one D-5j permit shall be issued within each 39487  
community entertainment district for each five acres of land 39488  
located within the district. Not more than fifteen D-5j permits 39489  
may be issued within a single community entertainment district. 39490  
Except as otherwise provided in division (J)(4) of this section, 39491  
no quota restrictions shall be placed upon the number of D-5j 39492  
permits that may be issued. 39493

(5) The fee for a D-5j permit is ~~one~~ two thousand ~~eight~~ three 39494  
hundred ~~seventy-five~~ forty-four dollars. 39495

(K)(1) Permit D-5k may be issued to any nonprofit 39496  
organization that is exempt from federal income taxation under the 39497  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 39498  
501(c)(3), as amended, that is the owner or operator of a 39499  
botanical garden recognized by the American association of 39500  
botanical gardens and arboreta, and that has not less than 39501  
twenty-five hundred bona fide members. 39502

(2) The holder of a D-5k permit may sell beer and any 39503  
intoxicating liquor at retail, only by the individual drink in 39504  
glass and from the container, on the premises where sold. 39505

(3) The holder of a D-5k permit shall sell no beer or 39506  
intoxicating liquor for consumption on the premises where sold 39507  
after one a.m. 39508

(4) A D-5k permit shall not be transferred to another 39509  
location. 39510

(5) No quota restrictions shall be placed on the number of 39511  
D-5k permits that may be issued. 39512

(6) The fee for the D-5k permit is one thousand ~~five~~ eight 39513



hundred seventy-five dollars. 39514

**Sec. 4303.182.** (A) Except as otherwise provided in divisions 39515  
(B) to (G) of this section, permit D-6 shall be issued to the 39516  
holder of an A-1-A, A-2, C-2, D-2, D-3, D-4, D-4a, D-5, D-5a, 39517  
D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 39518  
permit to allow sale under that permit between the hours of ten 39519  
a.m. and midnight, or between the hours of one p.m. and midnight, 39520  
on Sunday, as applicable, if that sale has been authorized under 39521  
section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised 39522  
Code and under the restrictions of that authorization. 39523

(B) Permit D-6 shall be issued to the holder of any permit, 39524  
including a D-4a and D-5d permit, authorizing the sale of 39525  
intoxicating liquor issued for a premises located at any publicly 39526  
owned airport, as defined in section 4563.01 of the Revised Code, 39527  
at which commercial airline companies operate regularly scheduled 39528  
flights on which space is available to the public, to allow sale 39529  
under such permit between the hours of ten a.m. and midnight on 39530  
Sunday, whether or not that sale has been authorized under section 39531  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 39532

(C) Permit D-6 shall be issued to the holder of a D-5a 39533  
permit, and to the holder of a D-3 or D-3a permit who is the owner 39534  
or operator of a hotel or motel that is required to be licensed 39535  
under section 3731.03 of the Revised Code, that contains at least 39536  
fifty rooms for registered transient guests, and that has on its 39537  
premises a retail food establishment or a food service operation 39538  
licensed pursuant to Chapter 3717. of the Revised Code that 39539  
operates as a restaurant for purposes of this chapter and is 39540  
affiliated with the hotel or motel and within or contiguous to the 39541  
hotel or motel and serving food within the hotel or motel, to 39542  
allow sale under such permit between the hours of ten a.m. and 39543  
midnight on Sunday, whether or not that sale has been authorized 39544

under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 39545  
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(D) The holder of a D-6 permit that is issued to a sports facility may make sales under the permit between the hours of eleven a.m. and midnight on any Sunday on which a professional baseball, basketball, football, hockey, or soccer game is being played at the sports facility. As used in this division, "sports facility" means a stadium or arena that has a seating capacity of at least four thousand and that is owned or leased by a professional baseball, basketball, football, hockey, or soccer franchise or any combination of those franchises. 39547  
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(E) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a premises located in or at the Ohio historical society area or the state fairgrounds, as defined in division (B) of section 4301.40 of the Revised Code, to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 39556  
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(F) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of intoxicating liquor and that is issued to an outdoor performing arts center to allow sale under that permit between the hours of one p.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361 of the Revised Code. A D-6 permit issued under this division is subject to the results of an election, held after the D-6 permit is issued, on question (B)(4) as set forth in section 4301.351 of the Revised Code. Following the end of the period during which an election may be held on question (B)(4) as set forth in that section, sales of intoxicating liquor may continue at an outdoor performing arts center under a D-6 permit issued under this division, unless an election on that question is held 39564  
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during the permitted period and a majority of the voters voting in 39577  
the precinct on that question vote "no." 39578

As used in this division, "outdoor performing arts center" 39579  
means an outdoor performing arts center that is located on not 39580  
less than eight hundred acres of land and that is open for 39581  
performances from the first day of April to the last day of 39582  
October of each year. 39583

(G) Permit D-6 shall be issued to the holder of any permit 39584  
that authorizes the sale of beer or intoxicating liquor and that 39585  
is issued to a golf course owned by the state, a conservancy 39586  
district, a park district created under Chapter 1545. of the 39587  
Revised Code, or another political subdivision to allow sale under 39588  
that permit between the hours of ten a.m. and midnight on Sunday, 39589  
whether or not that sale has been authorized under section 39590  
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 39591

(H) If the restriction to licensed premises where the sale of 39592  
food and other goods and services exceeds fifty per cent of the 39593  
total gross receipts of the permit holder at the premises is 39594  
applicable, the division of liquor control may accept an affidavit 39595  
from the permit holder to show the proportion of the permit 39596  
holder's gross receipts derived from the sale of food and other 39597  
goods and services. If the liquor control commission determines 39598  
that affidavit to have been false, it shall revoke the permits of 39599  
the permit holder at the premises concerned. 39600

(I) The fee for the D-6 permit is ~~two~~ five hundred ~~fifty~~ 39601  
dollars when it is issued to the holder of an A-1-A, A-2, D-2, 39602  
D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, 39603  
D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 39604  
permit is ~~two~~ four hundred dollars when it is issued to the holder 39605  
of a C-2 permit. 39606

**Sec. 4303.183.** Permit D-7 may be issued to the holder of any 39607

D-2 permit issued by the division of liquor control, or if there 39608  
is an insufficient number of D-2 permit holders to fill the resort 39609  
quota, to the operator of a retail food establishment or a food 39610  
service operation required to be licensed under Chapter 3717. of 39611  
the Revised Code that operates as a restaurant for purposes of 39612  
this chapter and which qualifies under the other requirements of 39613  
this section, to sell beer and any intoxicating liquor at retail, 39614  
only by the individual drink in glass and from the container, for 39615  
consumption on the premises where sold. Not less than fifty per 39616  
cent of the business on the permit premises shall be preparing and 39617  
serving meals for a consideration in order to qualify for and 39618  
continue to hold such D-7 permit. The permit premises shall be 39619  
located in a resort area. 39620

"Resort area" means a municipal corporation, township, 39621  
county, or any combination thereof, which provides entertainment, 39622  
recreation, and transient housing facilities specifically intended 39623  
to provide leisure time activities for persons other than those 39624  
whose permanent residence is within the "resort area" and who 39625  
increase the population of the "resort area" on a seasonal basis, 39626  
and which experiences seasonal peaks of employment and 39627  
governmental services as a direct result of population increase 39628  
generated by the transient, recreating public. A resort season 39629  
shall begin on the first day of May and end on the last day of 39630  
October. Notwithstanding section 4303.27 of the Revised Code, such 39631  
permits may be issued for resort seasons without regard to the 39632  
calendar year or permit year. Quota restrictions on the number of 39633  
such permits shall take into consideration the transient 39634  
population during the resort season, the custom and habits of 39635  
visitors and tourists, and the promotion of the resort and tourist 39636  
industry. The fee for this permit is ~~three~~ four hundred 39637  
~~seventy-five~~ sixty-nine dollars per month. 39638

Any suspension of a D-7 permit shall be satisfied during the 39639

resort season in which such suspension becomes final. If such 39640  
suspension becomes final during the off-season, or if the period 39641  
of the suspension extends beyond the last day of October, the 39642  
suspension or remainder thereof shall be satisfied during the next 39643  
resort season. 39644

The ownership of a D-7 permit may be transferred from one 39645  
permit holder to another. The holder of a D-7 permit may file an 39646  
application to transfer such permit to a new location within the 39647  
same resort area, provided that such permit holder shall be the 39648  
owner or operator of a retail food establishment or a food service 39649  
operation, required to be licensed under Chapter 3717. of the 39650  
Revised Code, that operates as a restaurant for purposes of this 39651  
chapter, at such new location. 39652

**Sec. 4303.184.** (A) Subject to division (B) of this section, a 39653  
D-8 permit may be issued to the holder of a C-1, C-2, or C-2x 39654  
permit issued to a retail store that has either of the following 39655  
characteristics: 39656

(1) The store has at least five thousand five hundred square 39657  
feet of floor area, and it generates more than sixty per cent of 39658  
its sales in general merchandise items and food for consumption 39659  
off the premises where sold. 39660

(2) Wine constitutes at least sixty per cent of the value of 39661  
the store's inventory. 39662

(B) A D-8 permit may be issued to the holder of a C-1, C-2, 39663  
or C-2x permit only if the premises of the permit holder are 39664  
located in a precinct, or at a particular location in a precinct, 39665  
in which the sale of beer, wine, or mixed beverages is permitted 39666  
for consumption off the premises where sold. Sales under a D-8 39667  
permit are not affected by whether sales for consumption on the 39668  
premises where sold are permitted in the precinct or at the 39669  
particular location where the D-8 premises are located. 39670

(C) The holder of a D-8 permit may sell tasting samples of 39671  
beer, wine, and mixed beverages, but not spirituous liquor, at 39672  
retail, for consumption on the premises where sold in an amount 39673  
not to exceed two ounces or another amount designated by rule of 39674  
the liquor control commission. A tasting sample shall not be sold 39675  
for general consumption. No D-8 permit holder shall allow any 39676  
authorized purchaser to consume more than four tasting samples of 39677  
beer, wine, or mixed beverages, or any combination of beer, wine, 39678  
or mixed beverages, per day. 39679

(D) The privileges authorized under a D-8 permit may only be 39680  
exercised in conjunction with and during the hours of operation 39681  
authorized by a C-1, C-2, C-2x, or D-6 permit. 39682

(E) A D-8 permit shall not be transferred to another 39683  
location. 39684

(F) The fee for the D-8 permit is ~~two~~ five hundred ~~fifty~~ 39685  
dollars. 39686

(G) The holder of a D-8 permit shall cause an independent 39687  
audit to be performed at the end of the first full year of 39688  
operation following issuance of the permit, and at the end of each 39689  
second year thereafter, in order to verify that the permit holder 39690  
satisfies the applicable requirement of division (A)(1) or (2) of 39691  
this section. The permit holder shall transmit the results of the 39692  
independent audit to the division of liquor control. If the 39693  
results of the audit indicate noncompliance with division (A) of 39694  
this section, the division shall not renew the D-8 permit of the 39695  
permit holder. 39696

**Sec. 4303.19.** Permit E may be issued to the owner or operator 39697  
of any railroad, a sleeping car company operating dining cars, 39698  
buffet cars, club cars, lounge cars, or similar equipment, or an 39699  
airline providing charter or regularly scheduled aircraft 39700

transportation service with dining, buffet, club, lounge, or 39701  
similar facilities, to sell beer or any intoxicating liquor in any 39702  
such car or aircraft to bona fide passengers at retail in glass 39703  
and from the container for consumption in such car or aircraft, 39704  
including sale on Sunday between the hours of one p.m. and 39705  
midnight. The fee for this permit is ~~two~~ five hundred ~~fifty~~ 39706  
dollars. 39707

**Sec. 4303.20.** Permit F may be issued to an association of ten 39708  
or more persons, a labor union, or a charitable organization, or 39709  
to an employer of ten or more persons sponsoring a function for 39710  
~~his~~ the employer's employees, to purchase from the holders of A-1 39711  
and B-1 permits and to sell beer for a period lasting not to 39712  
exceed five days. No more than two such permits may be issued to 39713  
the same applicant in any thirty-day period. 39714

The special function for which ~~such~~ the permit is issued 39715  
shall include a social, recreational, benevolent, charitable, 39716  
fraternal, political, patriotic, or athletic purpose but shall not 39717  
include any function the proceeds of which are for the profit or 39718  
gain of any individual. The fee for this permit is ~~twenty~~ forty 39719  
dollars. 39720

**Sec. 4303.201.** (A) As used in this section: 39721

(1) "Convention facility" means any structure owned or leased 39722  
by a municipal corporation or county which was expressly designed 39723  
and constructed and is currently used for the purpose of 39724  
presenting conventions, public meetings, and exhibitions. 39725

(2) "Nonprofit organization" means any unincorporated 39726  
association or nonprofit corporation that is not formed for the 39727  
pecuniary gain or profit of, and whose net earnings or any part 39728  
thereof is not distributable to, its members, trustees, officers, 39729  
or other private persons; provided, that the payment of reasonable 39730

compensation for services rendered and the distribution of assets 39731  
on dissolution shall not be considered pecuniary gain or profit or 39732  
distribution of earnings in an association or corporation all of 39733  
whose members are nonprofit corporations. Distribution of earnings 39734  
to member organizations does not deprive it of the status of a 39735  
nonprofit organization. 39736

(B) An F-1 permit may be issued to any nonprofit organization 39737  
to allow the nonprofit organization and its members and their 39738  
guests to lawfully bring beer, wine, and intoxicating liquor in 39739  
its original package, flasks, or other containers into a 39740  
convention facility for consumption therein, if both of the 39741  
following requirements are met: 39742

(1) The superintendent of liquor control is satisfied the 39743  
organization meets the definition of a nonprofit organization as 39744  
set forth in division (A)(2) of this section, the nonprofit 39745  
organization's membership includes persons residing in two or more 39746  
states, and the organization's total membership is in excess of 39747  
five hundred. The superintendent may accept a sworn statement by 39748  
the president or other chief executive officer of the nonprofit 39749  
organization as proof of the matters required in this division. 39750

(2) The managing official or employee of the convention 39751  
facility has given written consent to the use of the convention 39752  
facility and to the application for the F-1 permit, as shown in 39753  
the nonprofit organization's application to the superintendent. 39754

(C) The superintendent shall specify individually the 39755  
effective period of each F-1 permit on the permit, which shall not 39756  
exceed three days. The fee for an F-1 permit is ~~one~~ two hundred 39757  
~~twenty-five~~ fifty dollars. The superintendent shall prepare and 39758  
make available application forms to request F-1 permits and may 39759  
require applicants to furnish such information as the 39760  
superintendent determines to be necessary for the administration 39761  
of this section. 39762



(D) No holder of an F-1 permit shall make a specific charge 39763  
for beer, wine, or intoxicating liquor by the drink, or in its 39764  
original package, flasks, or other containers in connection with 39765  
its use of the convention facility under the permit. 39766

**Sec. 4303.202.** (A) The division of liquor control may issue 39767  
an F-2 permit to an association or corporation, or to a recognized 39768  
subordinate lodge, chapter, or other local unit of an association 39769  
or corporation, to sell beer or intoxicating liquor by the 39770  
individual drink at an event to be held on premises located in a 39771  
political subdivision or part thereof where the sale of beer or 39772  
intoxicating liquor on that day is otherwise permitted by law. 39773

The division of liquor control may issue an F-2 permit to an 39774  
association or corporation, or to a recognized subordinate lodge, 39775  
chapter, or other local unit of an association or corporation, to 39776  
sell beer, wine, and spirituous liquor by the individual drink at 39777  
an event to be held on premises located in a political subdivision 39778  
or part thereof where the sale of beer and wine, but not 39779  
spirituous liquor, is otherwise permitted by law on that day. 39780

Notwithstanding section 1711.09 of the Revised Code, this 39781  
section applies to any association or corporation or a recognized 39782  
subordinate lodge, chapter, or other local unit of an association 39783  
or corporation. 39784

In order to receive an F-2 permit, the association, 39785  
corporation, or local unit shall be organized not for profit, 39786  
shall be operated for a charitable, cultural, fraternal, or 39787  
educational purpose, and shall not be affiliated with the holder 39788  
of any class of liquor permit, other than a D-4 permit. 39789

The premises on which the permit is to be used shall be 39790  
clearly defined and sufficiently restricted to allow proper 39791  
supervision of the permit use by state and local law enforcement 39792

personnel. An F-2 permit may be issued for the same premises for 39793  
which another class of permit is issued. 39794

No F-2 permit shall be effective for more than forty-eight 39795  
consecutive hours, and sales shall be confined to the same hours 39796  
permitted to the holder of a D-3 permit. The division shall not 39797  
issue more than two F-2 permits in one calendar year to the same 39798  
association, corporation, or local unit of an association or 39799  
corporation. The fee for an F-2 permit is ~~seventy five~~ one hundred 39800  
fifty dollars. 39801

If an applicant wishes the holder of a D-3, D-4, or D-5 39802  
permit to conduct the sale of beer and intoxicating liquor at the 39803  
event, the applicant may request that the F-2 permit be issued 39804  
jointly to the association, corporation, or local unit and the 39805  
D-permit holder. If a permit is issued jointly, the association, 39806  
corporation, or local unit and the D-permit holder shall both be 39807  
held responsible for any conduct that violates laws pertaining to 39808  
the sale of alcoholic beverages, including sales by the D-permit 39809  
holder; otherwise, the association, corporation, or local unit 39810  
shall be held responsible. In addition to the permit fee paid by 39811  
the association, corporation, or local unit, the D-permit holder 39812  
shall pay a fee of ten dollars. A D-permit holder may receive an 39813  
unlimited number of joint F-2 permits. 39814

Any association, corporation, or local unit applying for an 39815  
F-2 permit shall file with the application a statement of the 39816  
organizational purpose of the association, corporation, or local 39817  
unit, the location and purpose of the event, and a list of its 39818  
officers. The application form shall contain a notice that a 39819  
person who knowingly makes a false statement on the application or 39820  
statement is guilty of the crime of falsification, a misdemeanor 39821  
of the first degree. In ruling on an application, the division 39822  
shall consider, among other things, the past activities of the 39823  
association, corporation, or local unit and any D-permit holder 39824

while operating under other F-2 permits, the location of the event 39825  
for which the current application is made, and any objections of 39826  
local residents or law enforcement authorities. If the division 39827  
approves the application, it shall send copies of the approved 39828  
application to the proper law enforcement authorities prior to the 39829  
scheduled event. 39830

Using the procedures of Chapter 119. of the Revised Code, the 39831  
liquor control commission may adopt such rules as are necessary to 39832  
administer this section. 39833

(B) No association, corporation, local unit of an association 39834  
or corporation, or D-permit holder who holds an F-2 permit shall 39835  
sell beer or intoxicating liquor beyond the hours of sale allowed 39836  
by the permit. This division imposes strict liability on the 39837  
holder of such permit and on any officer, agent, or employee of 39838  
such permit holder. 39839

**Sec. 4303.203.** (A) As used in this section: 39840

(1) "Convention facility" and "nonprofit corporation" have 39841  
the same meanings as in section 4303.201 of the Revised Code. 39842

(2) "Hotel" means a hotel described in section 3731.01 of the 39843  
Revised Code that has at least fifty rooms for registered 39844  
transient guests and that is required to be licensed pursuant to 39845  
section 3731.03 of the Revised Code. 39846

(B) An F-3 permit may be issued to an organization whose 39847  
primary purpose is to support, promote, and educate members of the 39848  
beer, wine, or mixed beverage industries, to allow the 39849  
organization to bring beer, wine, or mixed beverages in their 39850  
original packages or containers into a convention facility or 39851  
hotel for consumption in the facility or hotel, if all of the 39852  
following requirements are met: 39853

(1) The superintendent of liquor control is satisfied that 39854

the organization is a nonprofit organization and that the 39855  
organization's membership is in excess of two hundred fifty 39856  
persons. 39857

(2) The general manager or the equivalent officer of the 39858  
convention facility or hotel provides a written consent for the 39859  
use of a portion of the facility or hotel by the organization and 39860  
a written statement that the facility's or hotel's permit 39861  
privileges will be suspended in the portion of the facility or 39862  
hotel in which the F-3 permit is in force. 39863

(3) The organization provides a written description that 39864  
clearly sets forth the portion of the convention facility or hotel 39865  
in which the F-3 permit will be used. 39866

(4) The organization provides a written statement as to its 39867  
primary purpose and the purpose of its event at the convention 39868  
facility or hotel. 39869

(5) Division (C) of this section does not apply. 39870

(C) No F-3 permit shall be issued to any nonprofit 39871  
organization that is created by or for a specific manufacturer, 39872  
supplier, distributor, or retailer of beer, wine, or mixed 39873  
beverages. 39874

(D) Notwithstanding division (E) of section 4301.22 of the 39875  
Revised Code, a holder of an F-3 permit may obtain by donation 39876  
beer, wine, or mixed beverages from any manufacturer or producer 39877  
of beer, wine, or mixed beverages. 39878

(E) Nothing in this chapter prohibits the holder of an F-3 39879  
permit from bringing into the portion of the convention facility 39880  
or hotel covered by the permit beer, wine, or mixed beverages 39881  
otherwise not approved for sale in this state. 39882

(F) Notwithstanding division (E) of section 4301.22 of the 39883  
Revised Code, no holder of an F-3 permit shall make any charge for 39884

any beer, wine, or mixed beverage served by the drink, or in its original package or container, in connection with the use of the portion of the convention facility or hotel covered by the permit.

(G) The division of liquor control shall prepare and make available an F-3 permit application form and may require applicants for the permit to provide information, in addition to that required by this section, that is necessary for the administration of this section.

(H) An F-3 permit shall be effective for a period not to exceed five consecutive days. The division of liquor control shall not issue more than three F-3 permits per calendar year to the same nonprofit organization. The fee for an F-3 permit is ~~one~~ three hundred ~~fifty~~ dollars.

**Sec. 4303.204.** (A) The division of liquor control may issue an F-4 permit to an association or corporation organized not-for-profit in this state to conduct an event that includes the introduction, showcasing, or promotion of Ohio wines, if the event has all of the following characteristics:

(1) It is coordinated by that association or corporation, and the association or corporation is responsible for the activities at it.

(2) It has as one of its purposes the intent to introduce, showcase, or promote Ohio wines to persons who attend it.

(3) It includes the sale of food for consumption on the premises where sold.

(4) It features at least three A-2 permit holders who sell Ohio wine at it.

(B) The holder of an F-4 permit may furnish, without charge, wine that it has obtained from the A-2 permit holders that are participating in the event for which the F-4 permit is issued, in

two-ounce samples for consumption on the premises where furnished 39915  
and may sell such wine by the glass for consumption on the 39916  
premises where sold. The holder of an A-2 permit that is 39917  
participating in the event for which the F-4 permit is issued may 39918  
sell wine that it has manufactured, in sealed containers for 39919  
consumption off the premises where sold. Wine may be furnished or 39920  
sold on the premises of the event for which the F-4 permit is 39921  
issued only where and when the sale of wine is otherwise permitted 39922  
by law. 39923

(C) The premises of the event for which the F-4 permit is 39924  
issued shall be clearly defined and sufficiently restricted to 39925  
allow proper enforcement of the permit by state and local law 39926  
enforcement officers. If an F-4 permit is issued for all or a 39927  
portion of the same premises for which another class of permit is 39928  
issued, that permit holder's privileges will be suspended in that 39929  
portion of the premises in which the F-4 permit is in effect. 39930

(D) No F-4 permit shall be effective for more than 39931  
seventy-two consecutive hours. No sales or furnishing of wine 39932  
shall take place under an F-4 permit after one a.m. 39933

(E) The division shall not issue more than six F-4 permits to 39934  
the same not-for-profit association or corporation in any one 39935  
calendar year. 39936

(F) An applicant for an F-4 permit shall apply for the permit 39937  
not later than thirty days prior to the first day of the event for 39938  
which the permit is sought. The application for the permit shall 39939  
list all of the A-2 permit holders that will participate in the 39940  
event for which the F-4 permit is sought. The fee for the F-4 39941  
permit is ~~thirty~~ sixty dollars per day. 39942

The division shall prepare and make available an F-4 permit 39943  
application form and may require applicants for and holders of the 39944  
F-4 permit to provide information that is in addition to that 39945

required by this section and that is necessary for the 39946  
administration of this section. 39947

(G)(1) The holder of an F-4 permit is responsible for, and is 39948  
subject to penalties for, any violations of this chapter or 39949  
Chapter 4301. of the Revised Code or the rules adopted under this 39950  
and that chapter. 39951

(2) An F-4 permit holder shall not allow an A-2 permit holder 39952  
to participate in the event for which the F-4 permit is issued if 39953  
the A-2 or A-1-A permit of that A-2 permit holder is under 39954  
suspension. 39955

(3) The division may refuse to issue an F-4 permit to an 39956  
applicant who has violated any provision of this chapter or 39957  
Chapter 4301. of the Revised Code during the applicant's previous 39958  
operation under an F-4 permit, for a period of up to two years 39959  
after the date of the violation. 39960

(H)(1) Notwithstanding division (E) of section 4301.22 of the 39961  
Revised Code, an A-2 permit holder that participates in an event 39962  
for which an F-4 permit is issued may donate wine that it has 39963  
manufactured to the holder of that F-4 permit. The holder of an 39964  
F-4 permit may return unused and sealed containers of wine to the 39965  
A-2 permit holder that donated the wine at the conclusion of the 39966  
event for which the F-4 permit was issued. 39967

(2) The participation by an A-2 permit holder or its 39968  
employees in an event for which an F-4 permit is issued does not 39969  
violate section 4301.24 of the Revised Code. 39970

**Sec. 4303.21.** Permit G may be issued to the owner of a 39971  
pharmacy in charge of a licensed pharmacist to be named in ~~such~~ 39972  
the permit for the sale at retail of alcohol for medicinal 39973  
purposes in quantities at each sale of not more than one gallon 39974  
upon the written prescription of a physician or dentist who is 39975

lawfully and regularly engaged in the practice of the physician's 39976  
or dentist's profession in this state, and for the sale of 39977  
industrial alcohol for mechanical, chemical, or scientific 39978  
purposes to a person known by the seller to be engaged in ~~such~~ 39979  
mechanical, chemical, or scientific pursuits; all subject to 39980  
section 4303.34 of the Revised Code. The fee for this permit ~~if~~ 39981  
~~fifty~~ is one hundred dollars. 39982

**Sec. 4303.22.** Permit H may be issued for a fee of ~~one~~ three 39983  
hundred ~~fifty~~ dollars to a carrier by motor vehicle who also holds 39984  
a license issued by the public utilities commission to transport 39985  
beer, intoxicating liquor, and alcohol, or any of them, in this 39986  
state for delivery or use in this state. This section does not 39987  
prevent the division of liquor control from contracting with 39988  
common or contract carriers for the delivery or transportation of 39989  
liquor for the division, and any contract or common carrier so 39990  
contracting with the division is eligible for an H permit. 39991  
Manufacturers or wholesale distributors of beer or intoxicating 39992  
liquor other than spirituous liquor who transport or deliver their 39993  
own products to or from their premises licensed under this chapter 39994  
and Chapter 4301. of the Revised Code by their own trucks as an 39995  
incident to the purchase or sale of such beverages need not obtain 39996  
an H permit. Carriers by rail shall receive an H permit upon 39997  
application for it. 39998

This section does not prevent the division from issuing, upon 39999  
the payment of the permit fee, an H permit to any person, 40000  
partnership, firm, or corporation licensed by any other state to 40001  
engage in the business of manufacturing and brewing or producing 40002  
beer, wine, and mixed beverages or any person, partnership, firm, 40003  
or corporation licensed by the United States or any other state to 40004  
engage in the business of importing beer, wine, and mixed 40005  
beverages manufactured outside the United States. The 40006  
manufacturer, brewer, or importer of products manufactured outside 40007



the United States, upon the issuance of an H permit, may 40008  
transport, ship, and deliver only its own products to holders of 40009  
B-1 or B-5 permits in Ohio in motor trucks and equipment owned and 40010  
operated by such class H permit holder. No H permit shall be 40011  
issued by the division to such applicant until the applicant files 40012  
with the division a liability insurance certificate or policy 40013  
satisfactory to the division, in a sum of not less than one 40014  
thousand nor more than five thousand dollars for property damage 40015  
and for not less than five thousand nor more than fifty thousand 40016  
dollars for loss sustained by reason of injury or death and with 40017  
such other terms as the division considers necessary to adequately 40018  
protect the interest of the public, having due regard for the 40019  
number of persons and amount of property affected. The certificate 40020  
or policy shall insure the manufacturer, brewer, or importer of 40021  
products manufactured outside the United States against loss 40022  
sustained by reason of the death of or injury to persons, and for 40023  
loss of or damage to property, from the negligence of such class H 40024  
permit holder in the operation of its motor vehicles or equipment 40025  
in this state. 40026

**Sec. 4303.23.** Permit I may be issued to wholesale druggists 40027  
to purchase alcohol from the holders of A-3 permits and to import 40028  
alcohol into ~~Ohio~~ this state subject to ~~such~~ terms ~~as are~~ imposed 40029  
by the division of liquor control; to sell at wholesale to 40030  
physicians, dentists, druggists, veterinary surgeons, 40031  
manufacturers, hospitals, infirmaries, and medical or educational 40032  
institutions using such alcohol for medicinal, mechanical, 40033  
chemical, or scientific purposes, and to holders of G permits for 40034  
nonbeverage purposes only; and to sell alcohol at retail in total 40035  
quantities at each sale of not more than one quart, upon the 40036  
written prescription of a physician or dentist who is lawfully and 40037  
regularly engaged in the practice of ~~his~~ the physician's or 40038  
dentist's profession in this state. The sale of alcohol under this 40039

section is subject to section 4303.34 of the Revised Code. The fee 40040  
for this permit is ~~one~~ two hundred dollars. 40041

"Wholesale druggists," as used in this section includes all 40042  
persons holding federal wholesale liquor dealers' licenses and who 40043  
are engaged in the sale of medicinal drugs, proprietary medicines, 40044  
and surgical and medical appliances and apparatus, at wholesale. 40045

**Sec. 4303.231.** Permit W may be issued to a manufacturer or 40046  
supplier of beer or intoxicating liquor to operate a warehouse for 40047  
the storage of beer or intoxicating liquor within this state and 40048  
to sell ~~such~~ those products from the warehouse only to holders of 40049  
B permits in this state and to other customers outside this state 40050  
under rules promulgated by the liquor control commission. Each 40051  
holder of a B permit with a consent to import on file with the 40052  
division of liquor control may purchase beer or intoxicating 40053  
liquor if designated by the permit to make ~~such~~ those purchases, 40054  
from the holder of a W permit. The fee for a W permit is one 40055  
thousand ~~two~~ five hundred ~~fifty~~ sixty-three dollars for each 40056  
warehouse during the year covered by the permit. 40057

**Sec. 4501.06.** The taxes, fees, and fines levied, charged, or 40058  
referred to in division (C)(1) of section 4503.10, division (D) of 40059  
section 4503.182, and sections 4505.11, 4505.111, 4506.08, 40060  
4506.09, 4507.23, 4508.05, 4923.12, and 5502.12 of the Revised 40061  
Code, unless otherwise designated by law, shall be deposited in 40062  
the state treasury to the credit of the state highway safety fund, 40063  
which is hereby created, and shall, after receipt of 40064  
certifications from the commissioners of the sinking fund 40065  
certifying, as required by sections 5528.15 and 5528.35 of the 40066  
Revised Code, that there are sufficient moneys to the credit of 40067  
the highway improvement bond retirement fund created by section 40068  
5528.12 of the Revised Code to meet in full all payments of 40069  
interest, principal, and charges for the retirement of bonds and 40070

other obligations issued pursuant to Section 2g of Article VIII, 40071  
Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised 40072  
Code due and payable during the current calendar year, and that 40073  
there are sufficient moneys to the credit of the highway 40074  
obligations bond retirement fund created by section 5528.32 of the 40075  
Revised Code to meet in full all payments of interest, principal, 40076  
and charges for the retirement of highway obligations issued 40077  
pursuant to Section 2i of Article VIII, Ohio Constitution, and 40078  
sections 5528.30 and 5528.31 of the Revised Code due and payable 40079  
during the current calendar year, be used for the purpose of 40080  
enforcing and paying the expenses of administering the law 40081  
relative to the registration and operation of motor vehicles on 40082  
the public roads or highways. Amounts credited to the fund may 40083  
also be used to pay the expenses of administering and enforcing 40084  
the laws under which such fees were collected. All investment 40085  
earnings of the state highway safety fund shall be credited to the 40086  
fund. 40087

**Sec. 4503.101.** (A) The registrar of motor vehicles shall 40088  
adopt rules to establish a system of motor vehicle registration 40089  
based upon the type of vehicle to be registered, the type of 40090  
ownership of the vehicle, the class of license plate to be issued, 40091  
and any other factor the registrar determines to be relevant. 40092  
Except for commercial cars, buses, trailers, and semitrailers 40093  
taxed under section 4503.042 of the Revised Code; except for 40094  
rental vehicles owned by motor vehicle renting dealers; and except 40095  
as otherwise provided by rule, motor vehicles owned by an 40096  
individual shall be registered based upon the motor vehicle 40097  
owner's date of birth. Beginning with the 2004 registration year, 40098  
the registrar shall assign motor vehicles to the registration 40099  
periods established by rules adopted under this section. 40100

(B) The registrar shall adopt rules to permit motor vehicle 40101  
owners residing together at one address to select the date of 40102

birth of any one of the owners as the date to register any or all 40103  
of the vehicles at that residence address, as shown in the records 40104  
of the bureau of motor vehicles. 40105

(C) The registrar shall adopt rules to assign and reassign 40106  
all commercial cars, ~~buses~~, trailers, and semitrailers taxed under 40107  
section 4503.042 of the Revised Code and all rental vehicles owned 40108  
by motor vehicle renting dealers to a system of registration so 40109  
that the registrations of approximately one-twelfth of all such 40110  
vehicles expire on the last day of each month of a calendar year. 40111  
To effect a reassignment from the registration period in effect on 40112  
~~the effective date of this amendment June 30, 2003,~~ to the new 40113  
registration periods established by the rules adopted under this 40114  
section as amended, the rules may require the motor vehicle to be 40115  
registered for more or less than a twelve-month period at the time 40116  
the motor vehicle's registration is subject to its initial renewal 40117  
following the effective date of such rules. If necessary to effect 40118  
an efficient transition, the rules may provide that the 40119  
registration reassignments take place over two consecutive 40120  
registration periods. The registration taxes to be charged shall 40121  
be determined by the registrar on the basis of the annual tax 40122  
otherwise due on the motor vehicle, prorated in accordance with 40123  
the number of months for which the motor vehicle is registered, 40124  
except that the fee established by division (C)(1) of section 40125  
4503.10 of the Revised Code shall be collected in full for each 40126  
renewal that occurs during the transition period and shall not be 40127  
prorated. 40128

(D) The registrar shall adopt rules to permit any commercial 40129  
motor vehicle owner or motor vehicle renting dealer who owns two 40130  
or more motor vehicles to request the registrar to permit the 40131  
owner to separate the owner's fleet into up to four divisions for 40132  
assignment to separate dates upon which to register the vehicles, 40133  
provided that the registrar may disapprove any such request 40134

whenever the registrar has reason to believe that an uneven 40135  
distribution of registrations throughout the calendar year has 40136  
developed or is likely to develop. 40137

(E) Every owner or lessee of a motor vehicle holding a 40138  
certificate of registration shall notify the registrar of any 40139  
change of the owner's or lessee's correct address within ten days 40140  
after the change occurs. The notification shall be in writing on a 40141  
form provided by the registrar or by electronic means approved by 40142  
the registrar and shall include the full name, date of birth if 40143  
applicable, license number, county of residence or place of 40144  
business, social security account number of an individual or 40145  
federal tax identification number of a business, and new address. 40146

(F) As used in this section, "motor vehicle renting dealer" 40147  
has the same meaning as in section 4549.65 of the Revised Code. 40148

**Sec. 4503.103.** (A)(1)(a) The registrar of motor vehicles may 40149  
adopt rules to permit any person or lessee, other than a person 40150  
receiving an apportioned license plate under the international 40151  
registration plan, who owns or leases one or more motor vehicles 40152  
to file a written application for registration for no more than 40153  
five succeeding registration years. The rules adopted by the 40154  
registrar may designate the classes of motor vehicles that are 40155  
eligible for such registration. At the time of application, all 40156  
annual taxes and fees shall be paid for each year for which the 40157  
person is registering. 40158

(b) The (i) Except as provided in division (A)(1)(b)(ii) of 40159  
this section, the registrar shall adopt rules to permit any 40160  
~~person, other than a person receiving an apportioned license plate~~ 40161  
~~under the international registration plan and other than the owner~~ 40162  
~~of a commercial car used solely in intrastate commerce,~~ who owns a 40163  
motor vehicle to file an application for registration for the next 40164  
two succeeding registration years. At the time of application, the 40165

person shall pay the annual taxes and fees for each registration 40166  
year, calculated in accordance with division (C) of section 40167  
4503.11 of the Revised Code. A person who is registering a vehicle 40168  
under division (A)(1)(b) of this section shall pay for each year 40169  
of registration the additional fee established under division 40170  
(C)(1) of section 4503.10 of the Revised Code. The person shall 40171  
also pay one and one-half times the amount of the deputy registrar 40172  
service fee specified in division (D) of section 4503.10 of the 40173  
Revised Code or the bureau of motor vehicles service fee specified 40174  
in division (G) of that section, as applicable. 40175

(ii) Division (A)(1)(b)(i) of this section does not apply to 40176  
a person receiving an apportioned license plate under the 40177  
international registration plan, or the owner of a commercial car 40178  
used solely in intrastate commerce, or the owner of a bus as 40179  
defined in section 4513.50 of the Revised Code. 40180

(2) No person applying for a multi-year registration under 40181  
division (A)(1) of this section is entitled to a refund of any 40182  
taxes or fees paid. 40183

(3) The registrar shall not issue to any applicant who has 40184  
been issued a final, nonappealable order under division (B) of 40185  
this section a multi-year registration or renewal thereof under 40186  
this division or rules adopted under it for any motor vehicle that 40187  
is required to be inspected under section 3704.14 of the Revised 40188  
Code the district of registration of which, as determined under 40189  
section 4503.10 of the Revised Code, is or is located in the 40190  
county named in the order. 40191

(B) Upon receipt from the director of environmental 40192  
protection of a notice issued under division (J) of section 40193  
3704.14 of the Revised Code indicating that an owner of a motor 40194  
vehicle that is required to be inspected under that section who 40195  
obtained a multi-year registration for the vehicle under division 40196  
(A) of this section or rules adopted under that division has not 40197

obtained an inspection certificate for the vehicle in accordance 40198  
with that section in a year intervening between the years of 40199  
issuance and expiration of the multi-year registration in which 40200  
the owner is required to have the vehicle inspected and obtain an 40201  
inspection certificate for it under division (F)(1)(a) of that 40202  
section, the registrar in accordance with Chapter 119. of the 40203  
Revised Code shall issue an order to the owner impounding the 40204  
certificate of registration and identification license plates for 40205  
the vehicle. The order also shall prohibit the owner from 40206  
obtaining or renewing a multi-year registration for any vehicle 40207  
that is required to be inspected under that section, the district 40208  
of registration of which is or is located in the same county as 40209  
the county named in the order during the number of years after 40210  
expiration of the current multi-year registration that equals the 40211  
number of years for which the current multi-year registration was 40212  
issued. 40213

An order issued under this division shall require the owner 40214  
to surrender to the registrar the certificate of registration and 40215  
license plates for the vehicle named in the order within five days 40216  
after its issuance. If the owner fails to do so within that time, 40217  
the registrar shall certify that fact to the county sheriff or 40218  
local police officials who shall recover the certificate of 40219  
registration and license plates for the vehicle. 40220

(C) Upon the occurrence of either of the following 40221  
circumstances, the registrar in accordance with Chapter 119. of 40222  
the Revised Code shall issue to the owner a modified order 40223  
rescinding the provisions of the order issued under division (B) 40224  
of this section impounding the certificate of registration and 40225  
license plates for the vehicle named in that original order: 40226

(1) Receipt from the director of environmental protection of 40227  
a subsequent notice under division (J) of section 3704.14 of the 40228  
Revised Code that the owner has obtained the inspection 40229

certificate for the vehicle as required under division (F)(1)(a) 40230  
of that section; 40231

(2) Presentation to the registrar by the owner of the 40232  
required inspection certificate for the vehicle. 40233

(D) The owner of a motor vehicle for which the certificate of 40234  
registration and license plates have been impounded pursuant to an 40235  
order issued under division (B) of this section, upon issuance of 40236  
a modified order under division (C) of this section, may apply to 40237  
the registrar for their return. A fee of two dollars and fifty 40238  
cents shall be charged for the return of the certificate of 40239  
registration and license plates for each vehicle named in the 40240  
application. 40241

**Sec. 4505.06.** (A)(1) Application for a certificate of title 40242  
shall be made in a form prescribed by the registrar of motor 40243  
vehicles and shall be sworn to before a notary public or other 40244  
officer empowered to administer oaths. The application shall be 40245  
filed with the clerk of any court of common pleas. An application 40246  
for a certificate of title may be filed electronically by any 40247  
electronic means approved by the registrar in any county with the 40248  
clerk of the court of common pleas of that county. Any payments 40249  
required by this chapter shall be considered as accompanying any 40250  
electronically transmitted application when payment actually is 40251  
received by the clerk. Payment of any fee or taxes may be made by 40252  
electronic transfer of funds. 40253

(2) The application for a certificate of title shall be 40254  
accompanied by the fee prescribed in section 4505.09 of the 40255  
Revised Code. The fee shall be retained by the clerk who issues 40256  
the certificate of title and shall be distributed in accordance 40257  
with that section. If a clerk of a court of common pleas, other 40258  
than the clerk of the court of common pleas of an applicant's 40259  
county of residence, issues a certificate of title to the 40260



applicant, the clerk shall transmit data related to the 40261  
transaction to the automated title processing system. 40262

(3) If a certificate of title previously has been issued for 40263  
a motor vehicle in this state, the application for a certificate 40264  
of title also shall be accompanied by that certificate of title 40265  
duly assigned, unless otherwise provided in this chapter. If a 40266  
certificate of title previously has not been issued for the motor 40267  
vehicle in this state, the application, unless otherwise provided 40268  
in this chapter, shall be accompanied by a manufacturer's or 40269  
importer's certificate or by a certificate of title of another 40270  
state from which the motor vehicle was brought into this state. If 40271  
the application refers to a motor vehicle last previously 40272  
registered in another state, the application also shall be 40273  
accompanied by the physical inspection certificate required by 40274  
section 4505.061 of the Revised Code. If the application is made 40275  
by two persons regarding a motor vehicle in which they wish to 40276  
establish joint ownership with right of survivorship, they may do 40277  
so as provided in section 2131.12 of the Revised Code. If the 40278  
applicant requests a designation of the motor vehicle in 40279  
beneficiary form so that upon the death of the owner of the motor 40280  
vehicle, ownership of the motor vehicle will pass to a designated 40281  
transfer-on-death beneficiary or beneficiaries, the applicant may 40282  
do so as provided in section 2131.13 of the Revised Code. A person 40283  
who establishes ownership of a motor vehicle that is transferable 40284  
on death in accordance with section 2131.13 of the Revised Code 40285  
may terminate that type of ownership or change the designation of 40286  
the transfer-on-death beneficiary or beneficiaries by applying for 40287  
a certificate of title pursuant to this section. The clerk shall 40288  
retain the evidence of title presented by the applicant and on 40289  
which the certificate of title is issued, except that, if an 40290  
application for a certificate of title is filed electronically by 40291  
an electronic motor vehicle dealer on behalf of the purchaser of a 40292  
motor vehicle, the clerk shall retain the completed electronic 40293

record to which the dealer converted the certificate of title 40294  
application and other required documents. The electronic motor 40295  
vehicle dealer shall ~~forward~~ retain the ~~actual~~ original title 40296  
application ~~and all other~~ documents ~~relating to the sale of the~~ 40297  
~~motor vehicle to any clerk within thirty days after the~~ 40298  
~~certificate of title is issued. The registrar, after consultation~~ 40299  
~~with the attorney general, shall adopt rules that govern the~~ 40300  
~~location at which, and the manner in which, are stored the actual~~ 40301  
~~application and all other documents relating to the sale of a~~ 40302  
~~motor vehicle when an electronic motor vehicle dealer files the~~ 40303  
~~application for a certificate of title electronically on behalf of~~ 40304  
~~the purchaser~~ for a period of time determined by the registrar and 40305  
shall make all of the documents available for inspection by the 40306  
registrar upon the registrar's request. 40307

The clerk shall use reasonable diligence in ascertaining 40308  
whether or not the facts in the application for a certificate of 40309  
title are true by checking the application and documents 40310  
accompanying it or the electronic record to which a dealer 40311  
converted the application and accompanying documents with the 40312  
records of motor vehicles in the clerk's office. If the clerk is 40313  
satisfied that the applicant is the owner of the motor vehicle and 40314  
that the application is in the proper form, the clerk, within five 40315  
business days after the application is filed, shall issue a 40316  
physical certificate of title over the clerk's signature and 40317  
sealed with the clerk's seal unless the applicant specifically 40318  
requests the clerk not to issue a physical certificate of title 40319  
and instead to issue an electronic certificate of title. For 40320  
purposes of the transfer of a certificate of title, if the clerk 40321  
is satisfied that the secured party has duly discharged a lien 40322  
notation but has not canceled the lien notation with a clerk, the 40323  
clerk may cancel the lien notation on the automated title 40324  
processing system and notify the clerk of the county of origin. 40325

(4) In the case of the sale of a motor vehicle to a general 40326  
buyer or user by a dealer, by a motor vehicle leasing dealer 40327  
selling the motor vehicle to the lessee or, in a case in which the 40328  
leasing dealer subleased the motor vehicle, the sublessee, at the 40329  
end of the lease agreement or sublease agreement, or by a 40330  
manufactured home broker, the certificate of title shall be 40331  
obtained in the name of the buyer by the dealer, leasing dealer, 40332  
or manufactured home broker, as the case may be, upon application 40333  
signed by the buyer. The certificate of title shall be issued, or 40334  
the process of entering the certificate of title application 40335  
information into the automated title processing system if a 40336  
physical certificate of title is not to be issued shall be 40337  
completed, within five business days after the application for 40338  
title is filed with the clerk. If the buyer of the motor vehicle 40339  
previously leased the motor vehicle and is buying the motor 40340  
vehicle at the end of the lease pursuant to that lease, the 40341  
certificate of title shall be obtained in the name of the buyer by 40342  
the motor vehicle leasing dealer who previously leased the motor 40343  
vehicle to the buyer or by the motor vehicle leasing dealer who 40344  
subleased the motor vehicle to the buyer under a sublease 40345  
agreement. 40346

In all other cases, except as provided in section 4505.032 40347  
and division (D)(2) of section 4505.11 of the Revised Code, such 40348  
certificates shall be obtained by the buyer. 40349

(5)(a)(i) If the certificate of title is being obtained in 40350  
the name of the buyer by a motor vehicle dealer or motor vehicle 40351  
leasing dealer and there is a security interest to be noted on the 40352  
certificate of title, the dealer or leasing dealer shall submit 40353  
the application for the certificate of title and payment of the 40354  
applicable tax to a clerk within seven business days after the 40355  
later of the delivery of the motor vehicle to the buyer or the 40356  
date the dealer or leasing dealer obtains the manufacturer's or 40357

importer's certificate, or certificate of title issued in the name 40358  
of the dealer or leasing dealer, for the motor vehicle. Submission 40359  
of the application for the certificate of title and payment of the 40360  
applicable tax within the required seven business days may be 40361  
indicated by postmark or receipt by a clerk within that period. 40362

(ii) Upon receipt of the certificate of title with the 40363  
security interest noted on its face, the dealer or leasing dealer 40364  
shall forward the certificate of title to the secured party at the 40365  
location noted in the financing documents or otherwise specified 40366  
by the secured party. 40367

(iii) A motor vehicle dealer or motor vehicle leasing dealer 40368  
is liable to a secured party for a late fee of ten dollars per day 40369  
for each certificate of title application and payment of the 40370  
applicable tax that is submitted to a clerk more than seven 40371  
business days but less than twenty-one days after the later of the 40372  
delivery of the motor vehicle to the buyer or the date the dealer 40373  
or leasing dealer obtains the manufacturer's or importer's 40374  
certificate, or certificate of title issued in the name of the 40375  
dealer or leasing dealer, for the motor vehicle and, from then on, 40376  
twenty-five dollars per day until the application and applicable 40377  
tax are submitted to a clerk. 40378

(b) In all cases of transfer of a motor vehicle, the 40379  
application for certificate of title shall be filed within thirty 40380  
days after the assignment or delivery of the motor vehicle. If an 40381  
application for a certificate of title is not filed within the 40382  
period specified in division (A)(5)(b) of this section, the clerk 40383  
shall collect a fee of five dollars for the issuance of the 40384  
certificate, except that no such fee shall be required from a 40385  
motor vehicle salvage dealer, as defined in division (A) of 40386  
section 4738.01 of the Revised Code, who immediately surrenders 40387  
the certificate of title for cancellation. The fee shall be in 40388  
addition to all other fees established by this chapter, and shall 40389

be retained by the clerk. The registrar shall provide, on the 40390  
certificate of title form prescribed by section 4505.07 of the 40391  
Revised Code, language necessary to give evidence of the date on 40392  
which the assignment or delivery of the motor vehicle was made. 40393

(6) As used in division (A) of this section, "lease 40394  
agreement," "lessee," and "sublease agreement" have the same 40395  
meanings as in section 4505.04 of the Revised Code. 40396

(B) The clerk, except as provided in this section, shall 40397  
refuse to accept for filing any application for a certificate of 40398  
title and shall refuse to issue a certificate of title unless the 40399  
dealer or manufactured home broker or the applicant, in cases in 40400  
which the certificate shall be obtained by the buyer, submits with 40401  
the application payment of the tax levied by or pursuant to 40402  
Chapters 5739. and 5741. of the Revised Code based on the 40403  
purchaser's county of residence. Upon payment of the tax in 40404  
accordance with division (E) of this section, the clerk shall 40405  
issue a receipt prescribed by the registrar and agreed upon by the 40406  
tax commissioner showing payment of the tax or a receipt issued by 40407  
the commissioner showing the payment of the tax. When submitting 40408  
payment of the tax to the clerk, a dealer shall retain any 40409  
discount to which the dealer is entitled under section 5739.12 of 40410  
the Revised Code. 40411

For receiving and disbursing such taxes paid to the clerk by 40412  
a resident of the clerk's county, the clerk may retain a poundage 40413  
fee of one and one one-hundredth per cent, and the clerk shall pay 40414  
the poundage fee into the certificate of title administration fund 40415  
created by section 325.33 of the Revised Code. The clerk shall not 40416  
retain a poundage fee from payments of taxes by persons who do not 40417  
reside in the clerk's county. 40418

A clerk, however, may retain from the taxes paid to the clerk 40419  
an amount equal to the poundage fees associated with certificates 40420  
of title issued by other clerks of courts of common pleas to 40421

applicants who reside in the first clerk's county. The registrar, 40422  
in consultation with the tax commissioner and the clerks of the 40423  
courts of common pleas, shall develop a report from the automated 40424  
title processing system that informs each clerk of the amount of 40425  
the poundage fees that the clerk is permitted to retain from those 40426  
taxes because of certificates of title issued by the clerks of 40427  
other counties to applicants who reside in the first clerk's 40428  
county. 40429

In the case of casual sales of motor vehicles, as defined in 40430  
section 4517.01 of the Revised Code, the price for the purpose of 40431  
determining the tax shall be the purchase price on the assigned 40432  
certificate of title executed by the seller and filed with the 40433  
clerk by the buyer on a form to be prescribed by the registrar, 40434  
which shall be prima-facie evidence of the amount for the 40435  
determination of the tax. 40436

(C)(1) If the transferor indicates on the certificate of 40437  
title that the odometer reflects mileage in excess of the designed 40438  
mechanical limit of the odometer, the clerk shall enter the phrase 40439  
"exceeds mechanical limits" following the mileage designation. If 40440  
the transferor indicates on the certificate of title that the 40441  
odometer reading is not the actual mileage, the clerk shall enter 40442  
the phrase "nonactual: warning - odometer discrepancy" following 40443  
the mileage designation. The clerk shall use reasonable care in 40444  
transferring the information supplied by the transferor, but is 40445  
not liable for any errors or omissions of the clerk or those of 40446  
the clerk's deputies in the performance of the clerk's duties 40447  
created by this chapter. 40448

The registrar shall prescribe an affidavit in which the 40449  
transferor shall swear to the true selling price and, except as 40450  
provided in this division, the true odometer reading of the motor 40451  
vehicle. The registrar may prescribe an affidavit in which the 40452  
seller and buyer provide information pertaining to the odometer 40453

reading of the motor vehicle in addition to that required by this 40454  
section, as such information may be required by the United States 40455  
secretary of transportation by rule prescribed under authority of 40456  
subchapter IV of the "Motor Vehicle Information and Cost Savings 40457  
Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 40458

(2) Division (C)(1) of this section does not require the 40459  
giving of information concerning the odometer and odometer reading 40460  
of a motor vehicle when ownership of a motor vehicle is being 40461  
transferred as a result of a bequest, under the laws of intestate 40462  
succession, to a survivor pursuant to section 2106.18, 2131.12, or 40463  
4505.10 of the Revised Code, to a transfer-on-death beneficiary or 40464  
beneficiaries pursuant to section 2131.13 of the ~~Revised~~ Revised 40465  
Code, or in connection with the creation of a security interest. 40466

(D) When the transfer to the applicant was made in some other 40467  
state or in interstate commerce, the clerk, except as provided in 40468  
this section, shall refuse to issue any certificate of title 40469  
unless the tax imposed by or pursuant to Chapter 5741. of the 40470  
Revised Code based on the purchaser's county of residence has been 40471  
paid as evidenced by a receipt issued by the tax commissioner, or 40472  
unless the applicant submits with the application payment of the 40473  
tax. Upon payment of the tax in accordance with division (E) of 40474  
this section, the clerk shall issue a receipt prescribed by the 40475  
registrar and agreed upon by the tax commissioner, showing payment 40476  
of the tax. 40477

For receiving and disbursing such taxes paid to the clerk by 40478  
a resident of the clerk's county, the clerk may retain a poundage 40479  
fee of one and one one-hundredth per cent. The clerk shall not 40480  
retain a poundage fee from payments of taxes by persons who do not 40481  
reside in the clerk's county. 40482

A clerk, however, may retain from the taxes paid to the clerk 40483  
an amount equal to the poundage fees associated with certificates 40484  
of title issued by other clerks of courts of common pleas to 40485

applicants who reside in the first clerk's county. The registrar, 40486  
in consultation with the tax commissioner and the clerks of the 40487  
courts of common pleas, shall develop a report from the automated 40488  
title processing system that informs each clerk of the amount of 40489  
the poundage fees that the clerk is permitted to retain from those 40490  
taxes because of certificates of title issued by the clerks of 40491  
other counties to applicants who reside in the first clerk's 40492  
county. 40493

When the vendor is not regularly engaged in the business of 40494  
selling motor vehicles, the vendor shall not be required to 40495  
purchase a vendor's license or make reports concerning those 40496  
sales. 40497

(E) The clerk shall accept any payment of a tax in cash, or 40498  
by cashier's check, certified check, draft, money order, or teller 40499  
check issued by any insured financial institution payable to the 40500  
clerk and submitted with an application for a certificate of title 40501  
under division (B) or (D) of this section. The clerk also may 40502  
accept payment of the tax by corporate, business, or personal 40503  
check, credit card, electronic transfer or wire transfer, debit 40504  
card, or any other accepted form of payment made payable to the 40505  
clerk. The clerk may require bonds, guarantees, or letters of 40506  
credit to ensure the collection of corporate, business, or 40507  
personal checks. Any service fee charged by a third party to a 40508  
clerk for the use of any form of payment may be paid by the clerk 40509  
from the certificate of title administration fund created in 40510  
section 325.33 of the Revised Code, or may be assessed by the 40511  
clerk upon the applicant as an additional fee. Upon collection, 40512  
the additional fees shall be paid by the clerk into that 40513  
certificate of title administration fund. 40514

The clerk shall make a good faith effort to collect any 40515  
payment of taxes due but not made because the payment was returned 40516  
or dishonored, but the clerk is not personally liable for the 40517



payment of uncollected taxes or uncollected fees. The clerk shall 40518  
notify the tax commissioner of any such payment of taxes that is 40519  
due but not made and shall furnish the information to the 40520  
commissioner that the commissioner requires. The clerk shall 40521  
deduct the amount of taxes due but not paid from the clerk's 40522  
periodic remittance of tax payments, in accordance with procedures 40523  
agreed upon by the tax commissioner. The commissioner may collect 40524  
taxes due by assessment in the manner provided in section 5739.13 40525  
of the Revised Code. 40526

Any person who presents payment that is returned or 40527  
dishonored for any reason is liable to the clerk for payment of a 40528  
penalty over and above the amount of the taxes due. The clerk 40529  
shall determine the amount of the penalty, and the penalty shall 40530  
be no greater than that amount necessary to compensate the clerk 40531  
for banking charges, legal fees, or other expenses incurred by the 40532  
clerk in collecting the returned or dishonored payment. The 40533  
remedies and procedures provided in this section are in addition 40534  
to any other available civil or criminal remedies. Subsequently 40535  
collected penalties, poundage fees, and title fees, less any title 40536  
fee due the state, from returned or dishonored payments collected 40537  
by the clerk shall be paid into the certificate of title 40538  
administration fund. Subsequently collected taxes, less poundage 40539  
fees, shall be sent by the clerk to the treasurer of state at the 40540  
next scheduled periodic remittance of tax payments, with 40541  
information as the commissioner may require. The clerk may abate 40542  
all or any part of any penalty assessed under this division. 40543

(F) In the following cases, the clerk shall accept for filing 40544  
an application and shall issue a certificate of title without 40545  
requiring payment or evidence of payment of the tax: 40546

(1) When the purchaser is this state or any of its political 40547  
subdivisions, a church, or an organization whose purchases are 40548  
exempted by section 5739.02 of the Revised Code; 40549

(2) When the transaction in this state is not a retail sale 40550  
as defined by section 5739.01 of the Revised Code; 40551

(3) When the purchase is outside this state or in interstate 40552  
commerce and the purpose of the purchaser is not to use, store, or 40553  
consume within the meaning of section 5741.01 of the Revised Code; 40554

(4) When the purchaser is the federal government; 40555

(5) When the motor vehicle was purchased outside this state 40556  
for use outside this state; 40557

(6) When the motor vehicle is purchased by a nonresident of 40558  
this state for immediate removal from this state, and will be 40559  
permanently titled and registered in another state, as provided by 40560  
division (B)(23) of section 5739.02 of the Revised Code, and upon 40561  
presentation of a copy of the affidavit provided by that section, 40562  
and a copy of the exemption certificate provided by section 40563  
5739.03 of the Revised Code. 40564

The clerk shall forward all payments of taxes, less poundage 40565  
fees, to the treasurer of state in a manner to be prescribed by 40566  
the tax commissioner and shall furnish information to the 40567  
commissioner as the commissioner requires. 40568

(G) An application, as prescribed by the registrar and agreed 40569  
to by the tax commissioner, shall be filled out and sworn to by 40570  
the buyer of a motor vehicle in a casual sale. The application 40571  
shall contain the following notice in bold lettering: "WARNING TO 40572  
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by 40573  
law to state the true selling price. A false statement is in 40574  
violation of section 2921.13 of the Revised Code and is punishable 40575  
by six months' imprisonment or a fine of up to one thousand 40576  
dollars, or both. All transfers are audited by the department of 40577  
taxation. The seller and buyer must provide any information 40578  
requested by the department of taxation. The buyer may be assessed 40579  
any additional tax found to be due." 40580

(H) For sales of manufactured homes or mobile homes occurring 40581  
on or after January 1, 2000, the clerk shall accept for filing, 40582  
pursuant to Chapter 5739. of the Revised Code, an application for 40583  
a certificate of title for a manufactured home or mobile home 40584  
without requiring payment of any tax pursuant to section 5739.02, 40585  
5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt 40586  
issued by the tax commissioner showing payment of the tax. For 40587  
sales of manufactured homes or mobile homes occurring on or after 40588  
January 1, 2000, the applicant shall pay to the clerk an 40589  
additional fee of five dollars for each certificate of title 40590  
issued by the clerk for a manufactured or mobile home pursuant to 40591  
division (H) of section 4505.11 of the Revised Code and for each 40592  
certificate of title issued upon transfer of ownership of the 40593  
home. The clerk shall credit the fee to the county certificate of 40594  
title administration fund, and the fee shall be used to pay the 40595  
expenses of archiving those certificates pursuant to division (A) 40596  
of section 4505.08 and division (H)(3) of section 4505.11 of the 40597  
Revised Code. The tax commissioner shall administer any tax on a 40598  
manufactured or mobile home pursuant to Chapters 5739. and 5741. 40599  
of the Revised Code. 40600

(I) Every clerk shall have the capability to transact by 40601  
electronic means all procedures and transactions relating to the 40602  
issuance of motor vehicle certificates of title that are described 40603  
in the Revised Code as being accomplished by electronic means. 40604

**Sec. 4508.08.** There is hereby created in the department of 40605  
public safety the motorcycle safety and education program. The 40606  
director of public safety shall administer the program in 40607  
accordance with the following guidelines: 40608

(A) The program shall include courses of instruction 40609  
conducted at vocational schools, community colleges, or other 40610  
suitable locations, by instructors who have obtained certification 40611

in the manner and form prescribed by the director. The courses 40612  
shall meet standards established in rules adopted by the 40613  
~~motorcycle safety foundation for courses of instruction department~~ 40614  
in motorcycle safety and education accordance with Chapter 119. of 40615  
the Revised Code. The courses may include instruction for novice 40616  
motorcycle operators, instruction in motorist awareness and 40617  
alcohol and drug awareness, and any other kind of instruction the 40618  
director considers appropriate. A reasonable tuition fee ~~of not~~ 40619  
~~more than twenty five dollars per student, as determined by the~~ 40620  
director, may be charged ~~for each course if sufficient funds are~~ 40621  
~~not available in.~~ The director may authorize private organizations 40622  
or corporations to offer courses without tuition fee restrictions, 40623  
but such entities are not eligible for reimbursement of expenses 40624  
or subsidies from the motorcycle safety and education fund created 40625  
in section 4501.13 of the Revised Code ~~to pay all of the costs of~~ 40626  
~~conducting the motorcycle safety and education program.~~ 40627

(B) In addition to courses of instruction, the program may 40628  
include provisions for equipment purchases, marketing and 40629  
promotion, improving motorcycle license testing procedures, and 40630  
any other provisions the director considers appropriate. 40631

(C) The director shall evaluate the program every two years 40632  
and shall periodically inspect the facilities, equipment, and 40633  
procedures used in the courses of instruction. 40634

(D) The director shall appoint at least one training 40635  
specialist who shall oversee the operation of the program, 40636  
establish courses of instruction, and supervise instructors. The 40637  
training specialist shall be a licensed motorcycle operator and 40638  
shall obtain certification in the manner and form prescribed by 40639  
the director. 40640

(E) The director may contract with other public agencies or 40641  
with private organizations or corporations to assist in 40642  
administering the program. 40643

(F) Notwithstanding any provision of Chapter 102. of the Revised Code, the director, in order to administer the program, may participate in a motorcycle manufacturer's motorcycle loan program.

(G) The director shall contract with an insurance company or companies authorized to do business in this state to purchase a policy or policies of insurance with respect to the establishment or administration, or any other aspect of the operation of the program.

**Sec. 4509.60.** Upon acceptance of a bond with individual sureties, the registrar of motor vehicles shall forward to the county recorder of the county in which the sureties' real estate is located a notice of such deposit and pay the recorder a base fee of five dollars for filing and indexing the notice and a housing trust fund fee of five dollars pursuant to section 317.36 of the Revised Code. The recorder shall receive and file such notice and keep and index the same. Such bond shall constitute a lien in favor of the state upon the real estate so scheduled or any surety, and the lien shall exist in favor of any holder of a final judgment against the person who has filed the bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damage because of injury to property, including the loss of use thereof, resulting from the ownership, maintenance, or use of a motor vehicle after such bond was filed, upon the filing of notice to that effect by the registrar with the county recorder as provided in this section.

**Sec. 4511.191.** (A) Any person who operates a vehicle upon a highway or any public or private property used by the public for vehicular travel or parking within this state shall be deemed to

have given consent to a chemical test or tests of the person's 40674  
blood, breath, or urine for the purpose of determining the 40675  
alcohol, drug, or alcohol and drug content of the person's blood, 40676  
breath, or urine if arrested for operating a vehicle while under 40677  
the influence of alcohol, a drug of abuse, or alcohol and a drug 40678  
of abuse or for operating a vehicle with a prohibited 40679  
concentration of alcohol in the blood, breath, or urine. The 40680  
chemical test or tests shall be administered at the request of a 40681  
police officer having reasonable grounds to believe the person to 40682  
have been operating a vehicle upon a highway or any public or 40683  
private property used by the public for vehicular travel or 40684  
parking in this state while under the influence of alcohol, a drug 40685  
of abuse, or alcohol and a drug of abuse or with a prohibited 40686  
concentration of alcohol in the blood, breath, or urine. The law 40687  
enforcement agency by which the officer is employed shall 40688  
designate which of the tests shall be administered. 40689

(B) Any person who is dead or unconscious, or who is 40690  
otherwise in a condition rendering the person incapable of 40691  
refusal, shall be deemed not to have withdrawn consent as provided 40692  
by division (A) of this section and the test or tests may be 40693  
administered, subject to sections 313.12 to 313.16 of the Revised 40694  
Code. 40695

(C)(1) Any person under arrest for operating a vehicle while 40696  
under the influence of alcohol, a drug of abuse, or alcohol and a 40697  
drug of abuse or for operating a vehicle with a prohibited 40698  
concentration of alcohol in the blood, breath, or urine shall be 40699  
advised at a police station, or at a hospital, first-aid station, 40700  
or clinic to which the person has been taken for first-aid or 40701  
medical treatment, of both of the following: 40702

(a) The consequences, as specified in division (E) of this 40703  
section, of the person's refusal to submit upon request to a 40704  
chemical test designated by the law enforcement agency as provided 40705

in division (A) of this section; 40706

(b) The consequences, as specified in division (F) of this 40707  
section, of the person's submission to the designated chemical 40708  
test if the person is found to have a prohibited concentration of 40709  
alcohol in the blood, breath, or urine. 40710

(2)(a) The advice given pursuant to division (C)(1) of this 40711  
section shall be in a written form containing the information 40712  
described in division (C)(2)(b) of this section and shall be read 40713  
to the person. The form shall contain a statement that the form 40714  
was shown to the person under arrest and read to the person in the 40715  
presence of the arresting officer and either another police 40716  
officer, a civilian police employee, or an employee of a hospital, 40717  
first-aid station, or clinic, if any, to which the person has been 40718  
taken for first-aid or medical treatment. The witnesses shall 40719  
certify to this fact by signing the form. 40720

(b) The form required by division (C)(2)(a) of this section 40721  
shall read as follows: 40722

"You now are under arrest for operating a vehicle while under 40723  
the influence of alcohol, a drug of abuse, or both alcohol and a 40724  
drug of abuse and will be requested by a police officer to submit 40725  
to a chemical test to determine the concentration of alcohol, 40726  
drugs of abuse, or alcohol and drugs of abuse in your blood, 40727  
breath, or urine. 40728

If you refuse to submit to the requested test or if you 40729  
submit to the requested test and are found to have a prohibited 40730  
concentration of alcohol in your blood, breath, or urine, your 40731  
driver's or commercial driver's license or permit or nonresident 40732  
operating privilege immediately will be suspended for the period 40733  
of time specified by law by the officer, on behalf of the 40734  
registrar of motor vehicles. You may appeal this suspension at 40735  
your initial appearance before the court that hears the charges 40736

against you resulting from the arrest, and your initial appearance 40737  
will be conducted no later than five days after the arrest. This 40738  
suspension is independent of the penalties for the offense, and 40739  
you may be subject to other penalties upon conviction." 40740

(D)(1) If a person under arrest as described in division 40741  
(C)(1) of this section is not asked by a police officer to submit 40742  
to a chemical test designated as provided in division (A) of this 40743  
section, the arresting officer shall seize the Ohio or 40744  
out-of-state driver's or commercial driver's license or permit of 40745  
the person and immediately forward the seized license or permit to 40746  
the court in which the arrested person is to appear on the charge 40747  
for which the person was arrested. If the arrested person does not 40748  
have the person's driver's or commercial driver's license or 40749  
permit on the person's self or in the person's vehicle, the 40750  
arresting officer shall order the arrested person to surrender it 40751  
to the law enforcement agency that employs the officer within 40752  
twenty-four hours after the arrest, and, upon the surrender, the 40753  
officer's employing agency immediately shall forward the license 40754  
or permit to the court in which the arrested person is to appear 40755  
on the charge for which the person was arrested. Upon receipt of 40756  
the license or permit, the court shall retain it pending the 40757  
initial appearance of the arrested person and any action taken 40758  
under section 4511.196 of the Revised Code. 40759

If a person under arrest as described in division (C)(1) of 40760  
this section is asked by a police officer to submit to a chemical 40761  
test designated as provided in division (A) of this section and is 40762  
advised of the consequences of the person's refusal or submission 40763  
as provided in division (C) of this section and if the person 40764  
either refuses to submit to the designated chemical test or the 40765  
person submits to the designated chemical test and the test 40766  
results indicate that the person's blood contained a concentration 40767  
of eight-hundredths of one per cent or more by weight of alcohol, 40768



the person's breath contained a concentration of eight-hundredths 40769  
of one gram or more by weight of alcohol per two hundred ten 40770  
liters of the person's breath, or the person's urine contained a 40771  
concentration of eleven-hundredths of one gram or more by weight 40772  
of alcohol per one hundred milliliters of the person's urine at 40773  
the time of the alleged offense, the arresting officer shall do 40774  
all of the following: 40775

(a) On behalf of the registrar, serve a notice of suspension 40776  
upon the person that advises the person that, independent of any 40777  
penalties or sanctions imposed upon the person pursuant to any 40778  
other section of the Revised Code or any other municipal 40779  
ordinance, the person's driver's or commercial driver's license or 40780  
permit or nonresident operating privilege is suspended, that the 40781  
suspension takes effect immediately, that the suspension will last 40782  
at least until the person's initial appearance on the charge that 40783  
will be held within five days after the date of the person's 40784  
arrest or the issuance of a citation to the person, and that the 40785  
person may appeal the suspension at the initial appearance; seize 40786  
the Ohio or out-of-state driver's or commercial driver's license 40787  
or permit of the person; and immediately forward the seized 40788  
license or permit to the registrar. If the arrested person does 40789  
not have the person's driver's or commercial driver's license or 40790  
permit on the person's self or in the person's vehicle, the 40791  
arresting officer shall order the person to surrender it to the 40792  
law enforcement agency that employs the officer within twenty-four 40793  
hours after the service of the notice of suspension, and, upon the 40794  
surrender, the officer's employing agency immediately shall 40795  
forward the license or permit to the registrar. 40796

(b) Verify the current residence of the person and, if it 40797  
differs from that on the person's driver's or commercial driver's 40798  
license or permit, notify the registrar of the change; 40799

(c) In addition to forwarding the arrested person's driver's 40800

or commercial driver's license or permit to the registrar, send to 40801  
the registrar, within forty-eight hours after the arrest of the 40802  
person, a sworn report that includes all of the following 40803  
statements: 40804

(i) That the officer had reasonable grounds to believe that, 40805  
at the time of the arrest, the arrested person was operating a 40806  
vehicle upon a highway or public or private property used by the 40807  
public for vehicular travel or parking within this state while 40808  
under the influence of alcohol, a drug of abuse, or alcohol and a 40809  
drug of abuse or with a prohibited concentration of alcohol in the 40810  
blood, breath, or urine; 40811

(ii) That the person was arrested and charged with operating 40812  
a vehicle while under the influence of alcohol, a drug of abuse, 40813  
or alcohol and a drug of abuse or with operating a vehicle with a 40814  
prohibited concentration of alcohol in the blood, breath, or 40815  
urine; 40816

(iii) That the officer asked the person to take the 40817  
designated chemical test, advised the person of the consequences 40818  
of submitting to the chemical test or refusing to take the 40819  
chemical test, and gave the person the form described in division 40820  
(C)(2) of this section; 40821

(iv) That the person refused to submit to the chemical test 40822  
or that the person submitted to the chemical test and the test 40823  
results indicate that the person's blood contained a concentration 40824  
of eight-hundredths of one per cent or more by weight of alcohol, 40825  
the person's breath contained a concentration of eight-hundredths 40826  
of one gram or more by weight of alcohol per two hundred ten 40827  
liters of the person's breath, or the person's urine contained a 40828  
concentration of eleven-hundredths of one gram or more by weight 40829  
of alcohol per one hundred milliliters of the person's urine at 40830  
the time of the alleged offense; 40831

(v) That the officer served a notice of suspension upon the person as described in division (D)(1)(a) of this section.

(2) The sworn report of an arresting officer completed under division (D)(1)(c) of this section shall be given by the officer to the arrested person at the time of the arrest or sent to the person by regular first class mail by the registrar as soon thereafter as possible, but no later than fourteen days after receipt of the report. An arresting officer may give an unsworn report to the arrested person at the time of the arrest provided the report is complete when given to the arrested person and subsequently is sworn to by the arresting officer. As soon as possible, but no later than forty-eight hours after the arrest of the person, the arresting officer shall send a copy of the sworn report to the court in which the arrested person is to appear on the charge for which the person was arrested.

(3) The sworn report of an arresting officer completed and sent to the registrar and the court under divisions (D)(1)(c) and (D)(2) of this section is prima-facie proof of the information and statements that it contains and shall be admitted and considered as prima-facie proof of the information and statements that it contains in any appeal under division (H) of this section relative to any suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege that results from the arrest covered by the report.

(E)(1) Upon receipt of the sworn report of an arresting officer completed and sent to the registrar and a court pursuant to divisions (D)(1)(c) and (D)(2) of this section in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under division (D)(1)(a) of this section and the period of

the suspension, as determined under divisions (E)(1)(a) to (d) of 40864  
this section. The suspension shall be subject to appeal as 40865  
provided in this section and shall be for whichever of the 40866  
following periods applies: 40867

(a) If the arrested person, within five years of the date on 40868  
which the person refused the request to consent to the chemical 40869  
test, had not refused a previous request to consent to a chemical 40870  
test of the person's blood, breath, or urine to determine its 40871  
alcohol content, the period of suspension shall be one year. If 40872  
the person is a resident without a license or permit to operate a 40873  
vehicle within this state, the registrar shall deny to the person 40874  
the issuance of a driver's or commercial driver's license or 40875  
permit for a period of one year after the date of the alleged 40876  
violation. 40877

(b) If the arrested person, within five years of the date on 40878  
which the person refused the request to consent to the chemical 40879  
test, had refused one previous request to consent to a chemical 40880  
test of the person's blood, breath, or urine to determine its 40881  
alcohol content, the period of suspension or denial shall be two 40882  
years. 40883

(c) If the arrested person, within five years of the date on 40884  
which the person refused the request to consent to the chemical 40885  
test, had refused two previous requests to consent to a chemical 40886  
test of the person's blood, breath, or urine to determine its 40887  
alcohol content, the period of suspension or denial shall be three 40888  
years. 40889

(d) If the arrested person, within five years of the date on 40890  
which the person refused the request to consent to the chemical 40891  
test, had refused three or more previous requests to consent to a 40892  
chemical test of the person's blood, breath, or urine to determine 40893  
its alcohol content, the period of suspension or denial shall be 40894  
five years. 40895

(2) The suspension or denial imposed under division (E)(1) of this section shall continue for the entire one-year, two-year, three-year, or five-year period, subject to appeal as provided in this section and subject to termination as provided in division (K) of this section.

(F) Upon receipt of the sworn report of an arresting officer completed and sent to the registrar and a court pursuant to divisions (D)(1)(c) and (D)(2) of this section in regard to a person whose test results indicate that the person's blood contained a concentration of eight-hundredths of one per cent or more by weight of alcohol, the person's breath contained a concentration of eight-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath, or the person's urine contained a concentration of eleven-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine at the time of the alleged offense, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under division (D)(1)(a) of this section and the period of the suspension, as determined under divisions (F)(1) to (4) of this section. The suspension shall be subject to appeal as provided in this section and shall be for whichever of the following periods that applies:

(1) Except when division (F)(2), (3), or (4) of this section applies and specifies a different period of suspension or denial, the period of the suspension or denial shall be ninety days.

(2) The period of suspension or denial shall be one year if the person has been convicted, within six years of the date the test was conducted, of a violation of one of the following:

(a) Division (A) or (B) of section 4511.19 of the Revised

Code;	40927
(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;	40928 40929 40930
(c) A municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine;	40931 40932 40933
(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;	40934 40935 40936
(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;	40937 40938 40939
(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;	40940 40941 40942 40943 40944 40945 40946
(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.	40947 40948 40949 40950
(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.	40951 40952 40953 40954
(4) If the person has been convicted, within six years of the date the test was conducted, of more than two violations of a	40955 40956

statute or ordinance described in division (F)(2) of this section, 40957  
the period of the suspension or denial shall be three years. 40958

(G)(1) A suspension of a person's driver's or commercial 40959  
driver's license or permit or nonresident operating privilege 40960  
under division (D)(1)(a) of this section for the period of time 40961  
described in division (E) or (F) of this section is effective 40962  
immediately from the time at which the arresting officer serves 40963  
the notice of suspension upon the arrested person. Any subsequent 40964  
finding that the person is not guilty of the charge that resulted 40965  
in the person being requested to take, or in the person taking, 40966  
the chemical test or tests under division (A) of this section 40967  
affects the suspension only as described in division (H)(2) of 40968  
this section. 40969

(2) If a person is arrested for operating a vehicle while 40970  
under the influence of alcohol, a drug of abuse, or alcohol and a 40971  
drug of abuse or for operating a vehicle with a prohibited 40972  
concentration of alcohol in the blood, breath, or urine and 40973  
regardless of whether the person's driver's or commercial driver's 40974  
license or permit or nonresident operating privilege is or is not 40975  
suspended under division (E) or (F) of this section, the person's 40976  
initial appearance on the charge resulting from the arrest shall 40977  
be held within five days of the person's arrest or the issuance of 40978  
the citation to the person, subject to any continuance granted by 40979  
the court pursuant to division (H)(1) of this section regarding 40980  
the issues specified in that division. 40981

(H)(1) If a person is arrested for operating a vehicle while 40982  
under the influence of alcohol, a drug of abuse, or alcohol and a 40983  
drug of abuse or for operating a vehicle with a prohibited 40984  
concentration of alcohol in the blood, breath, or urine and if the 40985  
person's driver's or commercial driver's license or permit or 40986  
nonresident operating privilege is suspended under division (E) or 40987  
(F) of this section, the person may appeal the suspension at the 40988

person's initial appearance on the charge resulting from the 40989  
arrest in the court in which the person will appear on that 40990  
charge. If the person appeals the suspension at the person's 40991  
initial appearance, the appeal does not stay the operation of the 40992  
suspension. Subject to division (H)(2) of this section, no court 40993  
has jurisdiction to grant a stay of a suspension imposed under 40994  
division (E) or (F) of this section, and any order issued by any 40995  
court that purports to grant a stay of any suspension imposed 40996  
under either of those divisions shall not be given administrative 40997  
effect. 40998

If the person appeals the suspension at the person's initial 40999  
appearance, either the person or the registrar may request a 41000  
continuance of the appeal. Either the person or the registrar 41001  
shall make the request for a continuance of the appeal at the same 41002  
time as the making of the appeal. If either the person or the 41003  
registrar requests a continuance of the appeal, the court may 41004  
grant the continuance. The court also may continue the appeal on 41005  
its own motion. The granting of a continuance applies only to the 41006  
conduct of the appeal of the suspension and does not extend the 41007  
time within which the initial appearance must be conducted, and 41008  
the court shall proceed with all other aspects of the initial 41009  
appearance in accordance with its normal procedures. Neither the 41010  
request for nor the granting of a continuance stays the operation 41011  
of the suspension that is the subject of the appeal. 41012

If the person appeals the suspension at the person's initial 41013  
appearance, the scope of the appeal is limited to determining 41014  
whether one or more of the following conditions have not been met: 41015

(a) Whether the law enforcement officer had reasonable ground 41016  
to believe the arrested person was operating a vehicle upon a 41017  
highway or public or private property used by the public for 41018  
vehicular travel or parking within this state while under the 41019  
influence of alcohol, a drug of abuse, or alcohol and a drug of 41020



abuse or with a prohibited concentration of alcohol in the blood, 41021  
breath, or urine and whether the arrested person was in fact 41022  
placed under arrest; 41023

(b) Whether the law enforcement officer requested the 41024  
arrested person to submit to the chemical test designated pursuant 41025  
to division (A) of this section; 41026

(c) Whether the arresting officer informed the arrested 41027  
person of the consequences of refusing to be tested or of 41028  
submitting to the test; 41029

(d) Whichever of the following is applicable: 41030

(i) Whether the arrested person refused to submit to the 41031  
chemical test requested by the officer; 41032

(ii) Whether the chemical test results indicate that the 41033  
arrested person's blood contained a concentration of 41034  
eight-hundredths of one per cent or more by weight of alcohol, the 41035  
person's breath contained a concentration of eight-hundredths of 41036  
one gram or more by weight of alcohol per two hundred ten liters 41037  
of the person's breath, or the person's urine contained a 41038  
concentration of eleven-hundredths of one gram or more by weight 41039  
of alcohol per one hundred milliliters of the person's urine at 41040  
the time of the alleged offense. 41041

(2) If the person appeals the suspension at the initial 41042  
appearance, the judge or referee of the court or the mayor of the 41043  
mayor's court shall determine whether one or more of the 41044  
conditions specified in divisions (H)(1)(a) to (d) of this section 41045  
have not been met. The person who appeals the suspension has the 41046  
burden of proving, by a preponderance of the evidence, that one or 41047  
more of the specified conditions has not been met. If during the 41048  
appeal at the initial appearance the judge or referee of the court 41049  
or the mayor of the mayor's court determines that all of those 41050  
conditions have been met, the judge, referee, or mayor shall 41051

uphold the suspension, shall continue the suspension, and shall 41052  
notify the registrar of the decision on a form approved by the 41053  
registrar. Except as otherwise provided in division (H)(2) of this 41054  
section, if the suspension is upheld or if the person does not 41055  
appeal the suspension at the person's initial appearance under 41056  
division (H)(1) of this section, the suspension shall continue 41057  
until the complaint alleging the violation for which the person 41058  
was arrested and in relation to which the suspension was imposed 41059  
is adjudicated on the merits by the judge or referee of the trial 41060  
court or by the mayor of the mayor's court. If the suspension was 41061  
imposed under division (E) of this section and it is continued 41062  
under this division, any subsequent finding that the person is not 41063  
guilty of the charge that resulted in the person being requested 41064  
to take the chemical test or tests under division (A) of this 41065  
section does not terminate or otherwise affect the suspension. If 41066  
the suspension was imposed under division (F) of this section and 41067  
it is continued under this division, the suspension shall 41068  
terminate if, for any reason, the person subsequently is found not 41069  
guilty of the charge that resulted in the person taking the 41070  
chemical test or tests under division (A) of this section. 41071

If, during the appeal at the initial appearance, the judge or 41072  
referee of the trial court or the mayor of the mayor's court 41073  
determines that one or more of the conditions specified in 41074  
divisions (H)(1)(a) to (d) of this section have not been met, the 41075  
judge, referee, or mayor shall terminate the suspension, subject 41076  
to the imposition of a new suspension under division (B) of 41077  
section 4511.196 of the Revised Code; shall notify the registrar 41078  
of the decision on a form approved by the registrar; and, except 41079  
as provided in division (B) of section 4511.196 of the Revised 41080  
Code, shall order the registrar to return the driver's or 41081  
commercial driver's license or permit to the person or to take 41082  
such measures as may be necessary, if the license or permit was 41083  
destroyed under section 4507.55 of the Revised Code, to permit the 41084

person to obtain a replacement driver's or commercial driver's 41085  
license or permit from the registrar or a deputy registrar in 41086  
accordance with that section. The court also shall issue to the 41087  
person a court order, valid for not more than ten days from the 41088  
date of issuance, granting the person operating privileges for 41089  
that period of time. 41090

If the person appeals the suspension at the initial 41091  
appearance, the registrar shall be represented by the prosecuting 41092  
attorney of the county in which the arrest occurred if the initial 41093  
appearance is conducted in a juvenile court or county court, 41094  
except that if the arrest occurred within a city or village within 41095  
the jurisdiction of the county court in which the appeal is 41096  
conducted, the city director of law or village solicitor of that 41097  
city or village shall represent the registrar. If the appeal is 41098  
conducted in a municipal court, the registrar shall be represented 41099  
as provided in section 1901.34 of the Revised Code. If the appeal 41100  
is conducted in a mayor's court, the registrar shall be 41101  
represented by the city director of law, village solicitor, or 41102  
other chief legal officer of the municipal corporation that 41103  
operates that mayor's court. 41104

(I)(1)(a) A person is not entitled to request, and a court 41105  
shall not grant to the person, occupational driving privileges 41106  
under division (I)(1) of this section if a person's driver's or 41107  
commercial driver's license or permit or nonresident operating 41108  
privilege has been suspended pursuant to division (E) of this 41109  
section, and the person, within the preceding seven years, has 41110  
refused three previous requests to consent to a chemical test of 41111  
the person's blood, breath, or urine to determine its alcohol 41112  
content or has been convicted of or pleaded guilty to three or 41113  
more violations of one or more of the following: 41114

(i) Division (A) or (B) of section 4511.19 of the Revised 41115  
Code; 41116

(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;	41117 41118 41119
(iii) A municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine;	41120 41121 41122
(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;	41123 41124 41125
(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;	41126 41127 41128
(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;	41129 41130 41131 41132 41133 41134 41135
(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.	41136 41137 41138 41139
(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 related criminal or delinquency case. The petition may be filed at	41140 41141 41142 41143 41144 41145 41146 41147

any time subsequent to the date on which the notice of suspension 41148  
is served upon the arrested person. The person shall pay the costs 41149  
of the proceeding, notify the registrar of the filing of the 41150  
petition, and send the registrar a copy of the petition. 41151

In the proceedings, the registrar shall be represented by the 41152  
prosecuting attorney of the county in which the arrest occurred if 41153  
the petition is filed in the juvenile court, county court, or 41154  
common pleas court, except that, if the arrest occurred within a 41155  
city or village within the jurisdiction of the county court in 41156  
which the petition is filed, the city director of law or village 41157  
solicitor of that city or village shall represent the registrar. 41158  
If the petition is filed in the municipal court, the registrar 41159  
shall be represented as provided in section 1901.34 of the Revised 41160  
Code. If the petition is filed in a mayor's court, the registrar 41161  
shall be represented by the city director of law, village 41162  
solicitor, or other chief legal officer of the municipal 41163  
corporation that operates the mayor's court. 41164

The court, if it finds reasonable cause to believe that 41165  
suspension would seriously affect the person's ability to continue 41166  
in the person's employment, may grant the person occupational 41167  
driving privileges during the period of suspension imposed 41168  
pursuant to division (E) of this section, subject to the 41169  
limitations contained in this division and division (I)(2) of this 41170  
section. The court may grant the occupational driving privileges, 41171  
subject to the limitations contained in this division and division 41172  
(I)(2) of this section, regardless of whether the person appeals 41173  
the suspension at the person's initial appearance under division 41174  
(H)(1) of this section or appeals the decision of the court made 41175  
pursuant to the appeal conducted at the initial appearance, and, 41176  
if the person has appealed the suspension or decision, regardless 41177  
of whether the matter at issue has been heard or decided by the 41178  
court. The court shall not grant occupational driving privileges 41179

for employment as a driver of commercial motor vehicles to any 41180  
person who is disqualified from operating a commercial motor 41181  
vehicle under section 3123.611 or 4506.16 of the Revised Code or 41182  
whose commercial driver's license or commercial driver's temporary 41183  
instruction permit has been suspended under section 3123.58 of the 41184  
Revised Code. 41185

(2)(a) In granting occupational driving privileges under 41186  
division (I)(1) of this section, the court may impose any 41187  
condition it considers reasonable and necessary to limit the use 41188  
of a vehicle by the person. The court shall deliver to the person 41189  
a permit card, in a form to be prescribed by the court, setting 41190  
forth the time, place, and other conditions limiting the 41191  
defendant's use of a vehicle. The grant of occupational driving 41192  
privileges shall be conditioned upon the person's having the 41193  
permit in the person's possession at all times during which the 41194  
person is operating a vehicle. 41195

A person granted occupational driving privileges who operates 41196  
a vehicle for other than occupational purposes, in violation of 41197  
any condition imposed by the court, or without having the permit 41198  
in the person's possession, is guilty of a violation of section 41199  
4507.02 of the Revised Code. 41200

(b) The court may not grant a person occupational driving 41201  
privileges under division (I)(1) of this section when prohibited 41202  
by a limitation contained in that division or during any of the 41203  
following periods of time: 41204

(i) The first thirty days of suspension imposed upon a person 41205  
who, within five years of the date on which the person refused the 41206  
request to consent to a chemical test of the person's blood, 41207  
breath, or urine to determine its alcohol content and for which 41208  
refusal the suspension was imposed, had not refused a previous 41209  
request to consent to a chemical test of the person's blood, 41210  
breath, or urine to determine its alcohol content; 41211

(ii) The first ninety days of suspension imposed upon a 41212  
person who, within five years of the date on which the person 41213  
refused the request to consent to a chemical test of the person's 41214  
blood, breath, or urine to determine its alcohol content and for 41215  
which refusal the suspension was imposed, had refused one previous 41216  
request to consent to a chemical test of the person's blood, 41217  
breath, or urine to determine its alcohol content; 41218

(iii) The first year of suspension imposed upon a person who, 41219  
within five years of the date on which the person refused the 41220  
request to consent to a chemical test of the person's blood, 41221  
breath, or urine to determine its alcohol content and for which 41222  
refusal the suspension was imposed, had refused two previous 41223  
requests to consent to a chemical test of the person's blood, 41224  
breath, or urine to determine its alcohol content; 41225

(iv) The first three years of suspension imposed upon a 41226  
person who, within five years of the date on which the person 41227  
refused the request to consent to a chemical test of the person's 41228  
blood, breath, or urine to determine its alcohol content and for 41229  
which refusal the suspension was imposed, had refused three or 41230  
more previous requests to consent to a chemical test of the 41231  
person's blood, breath, or urine to determine its alcohol content. 41232

(3) The court shall give information in writing of any action 41233  
taken under this section to the registrar. 41234

(4) If a person's driver's or commercial driver's license or 41235  
permit or nonresident operating privilege has been suspended 41236  
pursuant to division (F) of this section, and the person, within 41237  
the preceding seven years, has been convicted of or pleaded guilty 41238  
to three or more violations of division (A) or (B) of section 41239  
4511.19 of the Revised Code, a municipal ordinance relating to 41240  
operating a vehicle while under the influence of alcohol, a drug 41241  
of abuse, or alcohol and a drug of abuse, a municipal ordinance 41242

relating to operating a vehicle with a prohibited concentration of 41243  
alcohol in the blood, breath, or urine, section 2903.04 of the 41244  
Revised Code in a case in which the person was subject to the 41245  
sanctions described in division (D) of that section, or section 41246  
2903.06 or 2903.08 or former section 2903.07 of the Revised Code 41247  
or a municipal ordinance that is substantially similar to former 41248  
section 2903.07 of the Revised Code in a case in which the jury or 41249  
judge found that the person was under the influence of alcohol, a 41250  
drug of abuse, or alcohol and a drug of abuse, or a statute of the 41251  
United States or of any other state or a municipal ordinance of a 41252  
municipal corporation located in any other state that is 41253  
substantially similar to division (A) or (B) of section 4511.19 of 41254  
the Revised Code, the person is not entitled to request, and the 41255  
court shall not grant to the person, occupational driving 41256  
privileges under this division. Any other person whose driver's or 41257  
commercial driver's license or nonresident operating privilege has 41258  
been suspended pursuant to division (F) of this section may file 41259  
in the court specified in division (I)(1)(b) of this section a 41260  
petition requesting occupational driving privileges in accordance 41261  
with section 4507.16 of the Revised Code. The petition may be 41262  
filed at any time subsequent to the date on which the arresting 41263  
officer serves the notice of suspension upon the arrested person. 41264  
Upon the making of the request, occupational driving privileges 41265  
may be granted in accordance with section 4507.16 of the Revised 41266  
Code. The court may grant the occupational driving privileges, 41267  
subject to the limitations contained in section 4507.16 of the 41268  
Revised Code, regardless of whether the person appeals the 41269  
suspension at the person's initial appearance under division 41270  
(H)(1) of this section or appeals the decision of the court made 41271  
pursuant to the appeal conducted at the initial appearance, and, 41272  
if the person has appealed the suspension or decision, regardless 41273  
of whether the matter at issue has been heard or decided by the 41274  
court. 41275



(J) When it finally has been determined under the procedures 41276  
of this section that a nonresident's privilege to operate a 41277  
vehicle within this state has been suspended, the registrar shall 41278  
give information in writing of the action taken to the motor 41279  
vehicle administrator of the state of the person's residence and 41280  
of any state in which the person has a license. 41281

(K) A suspension of the driver's or commercial driver's 41282  
license or permit of a resident, a suspension of the operating 41283  
privilege of a nonresident, or a denial of a driver's or 41284  
commercial driver's license or permit pursuant to division (E) or 41285  
(F) of this section shall be terminated by the registrar upon 41286  
receipt of notice of the person's entering a plea of guilty to, or 41287  
of the person's conviction of, operating a vehicle while under the 41288  
influence of alcohol, a drug of abuse, or alcohol and a drug of 41289  
abuse or with a prohibited concentration of alcohol in the blood, 41290  
breath, or urine, if the offense for which the plea is entered or 41291  
that resulted in the conviction arose from the same incident that 41292  
led to the suspension or denial. 41293

The registrar shall credit against any judicial suspension of 41294  
a person's driver's or commercial driver's license or permit or 41295  
nonresident operating privilege imposed pursuant to division (B) 41296  
or (E) of section 4507.16 of the Revised Code any time during 41297  
which the person serves a related suspension imposed pursuant to 41298  
division (E) or (F) of this section. 41299

(L) At the end of a suspension period under this section, 41300  
section 4511.196, or division (B) of section 4507.16 of the 41301  
Revised Code and upon the request of the person whose driver's or 41302  
commercial driver's license or permit was suspended and who is not 41303  
otherwise subject to suspension, revocation, or disqualification, 41304  
the registrar shall return the driver's or commercial driver's 41305  
license or permit to the person upon the person's compliance with 41306  
all of the conditions specified in divisions (L)(1) and (2) of 41307

this section: 41308

(1) A showing by the person that the person has proof of 41309  
financial responsibility, a policy of liability insurance in 41310  
effect that meets the minimum standards set forth in section 41311  
4509.51 of the Revised Code, or proof, to the satisfaction of the 41312  
registrar, that the person is able to respond in damages in an 41313  
amount at least equal to the minimum amounts specified in section 41314  
4509.51 of the Revised Code. 41315

(2) Subject to the limitation contained in division (L)(3) of 41316  
this section, payment by the person of a license reinstatement fee 41317  
of four hundred twenty-five dollars to the bureau of motor 41318  
vehicles, which fee shall be deposited in the state treasury and 41319  
credited as follows: 41320

(a) One hundred twelve dollars and fifty cents shall be 41321  
credited to the statewide treatment and prevention fund created by 41322  
section 4301.30 of the Revised Code. The fund shall be used to pay 41323  
the costs of driver treatment and intervention programs operated 41324  
pursuant to sections 3793.02 and 3793.10 of the Revised Code. The 41325  
director of alcohol and drug addiction services shall determine 41326  
the share of the fund that is to be allocated to alcohol and drug 41327  
addiction programs authorized by section 3793.02 of the Revised 41328  
Code, and the share of the fund that is to be allocated to 41329  
drivers' intervention programs authorized by section 3793.10 of 41330  
the Revised Code. 41331

(b) Seventy-five dollars shall be credited to the reparations 41332  
fund created by section 2743.191 of the Revised Code. 41333

(c) Thirty-seven dollars and fifty cents shall be credited to 41334  
the indigent drivers alcohol treatment fund, which is hereby 41335  
established. Except as otherwise provided in division (L)(2)(c) of 41336  
this section, moneys in the fund shall be distributed by the 41337  
department of alcohol and drug addiction services to the county 41338

indigent drivers alcohol treatment funds, the county juvenile 41339  
indigent drivers alcohol treatment funds, and the municipal 41340  
indigent drivers alcohol treatment funds that are required to be 41341  
established by counties and municipal corporations pursuant to 41342  
division (N) of this section, and shall be used only to pay the 41343  
cost of an alcohol and drug addiction treatment program attended 41344  
by an offender or juvenile traffic offender who is ordered to 41345  
attend an alcohol and drug addiction treatment program by a 41346  
county, juvenile, or municipal court judge and who is determined 41347  
by the county, juvenile, or municipal court judge not to have the 41348  
means to pay for attendance at the program or to pay the costs 41349  
specified in division (N)(4) of this section in accordance with 41350  
that division. Moneys in the fund that are not distributed to a 41351  
county indigent drivers alcohol treatment fund, a county juvenile 41352  
indigent drivers alcohol treatment fund, or a municipal indigent 41353  
drivers alcohol treatment fund under division (N) of this section 41354  
because the director of alcohol and drug addiction services does 41355  
not have the information necessary to identify the county or 41356  
municipal corporation where the offender or juvenile offender was 41357  
arrested may be transferred by the director of budget and 41358  
management to the statewide treatment and prevention fund created 41359  
by section 4301.30 of the Revised Code, upon certification of the 41360  
amount by the director of alcohol and drug addiction services. 41361

(d) Seventy-five dollars shall be credited to the Ohio 41362  
rehabilitation services commission established by section 3304.12 41363  
of the Revised Code, to the services for rehabilitation fund, 41364  
which is hereby established. The fund shall be used to match 41365  
available federal matching funds where appropriate, and for any 41366  
other purpose or program of the commission to rehabilitate people 41367  
with disabilities to help them become employed and independent. 41368

(e) ~~Seventy-five~~ Sixty dollars shall be ~~deposited into the~~ 41369  
~~state treasury and~~ credited to the ~~drug abuse resistance education~~ 41370

public transportation grant programs fund, which is hereby 41371  
established, to be used by the attorney general for the purposes 41372  
specified in division (L)(4) of this section department of 41373  
transportation to match available federal public transportation 41374  
funds and for the department's related operating expenses. 41375

(f) Thirty dollars shall be credited to the state bureau of 41376  
motor vehicles fund created by section 4501.25 of the Revised 41377  
Code. 41378

(g) Twenty dollars shall be credited to the trauma and 41379  
emergency medical services grants fund created by section 4513.263 41380  
of the Revised Code. 41381

(h) Fifteen dollars shall be credited to the public safety 41382  
investigative unit fund, which is hereby established, to be used 41383  
by the department of public safety investigative unit for the 41384  
enforcement of the laws and rules described in division (B)(1) of 41385  
section 5502.14 of the Revised Code. 41386

(3) If a person's driver's or commercial driver's license or 41387  
permit is suspended under division (E) or (F) of this section, 41388  
section 4511.196, or division (B) of section 4507.16 of the 41389  
Revised Code, or any combination of the suspensions described in 41390  
division (L)(3) of this section, and if the suspensions arise from 41391  
a single incident or a single set of facts and circumstances, the 41392  
person is liable for payment of, and shall be required to pay to 41393  
the bureau, only one reinstatement fee of four hundred five 41394  
dollars. The reinstatement fee shall be distributed by the bureau 41395  
in accordance with division (L)(2) of this section. 41396

~~(4) The attorney general shall use amounts in the drug abuse~~ 41397  
~~resistance education programs fund to award grants to law~~ 41398  
~~enforcement agencies to establish and implement drug abuse~~ 41399  
~~resistance education programs in public schools. Grants awarded to~~ 41400  
~~a law enforcement agency under division (L)(4) of this section~~ 41401

~~shall be used by the agency to pay for not more than fifty per 41402  
cent of the amount of the salaries of law enforcement officers who 41403  
conduct drug abuse resistance education programs in public 41404  
schools. The attorney general shall not use more than six per cent 41405  
of the amounts the attorney general's office receives under 41406  
division (L)(2)(c) of this section to pay the costs it incurs in 41407  
administering the grant program established by division (L)(4) of 41408  
this section and in providing training and materials relating to 41409  
drug abuse resistance education programs. 41410~~

~~The attorney general shall report to the governor and the 41411  
general assembly each fiscal year on the progress made in 41412  
establishing and implementing drug abuse resistance education 41413  
programs. These reports shall include an evaluation of the 41414  
effectiveness of these programs. 41415~~

(M) Suspension of a commercial driver's license under 41416  
division (E) or (F) of this section shall be concurrent with any 41417  
period of disqualification under section 3123.611 or 4506.16 of 41418  
the Revised Code or any period of suspension under section 3123.58 41419  
of the Revised Code. No person who is disqualified for life from 41420  
holding a commercial driver's license under section 4506.16 of the 41421  
Revised Code shall be issued a driver's license under Chapter 41422  
4507. of the Revised Code during the period for which the 41423  
commercial driver's license was suspended under division (E) or 41424  
(F) of this section, and no person whose commercial driver's 41425  
license is suspended under division (E) or (F) of this section 41426  
shall be issued a driver's license under that chapter during the 41427  
period of the suspension. 41428

(N)(1) Each county shall establish an indigent drivers 41429  
alcohol treatment fund, each county shall establish a juvenile 41430  
indigent drivers alcohol treatment fund, and each municipal 41431  
corporation in which there is a municipal court shall establish an 41432  
indigent drivers alcohol treatment fund. All revenue that the 41433

general assembly appropriates to the indigent drivers alcohol 41434  
treatment fund for transfer to a county indigent drivers alcohol 41435  
treatment fund, a county juvenile indigent drivers alcohol 41436  
treatment fund, or a municipal indigent drivers alcohol treatment 41437  
fund, all portions of fees that are paid under division (L) of 41438  
this section and that are credited under that division to the 41439  
indigent drivers alcohol treatment fund in the state treasury for 41440  
a county indigent drivers alcohol treatment fund, a county 41441  
juvenile indigent drivers alcohol treatment fund, or a municipal 41442  
indigent drivers alcohol treatment fund, and all portions of fines 41443  
that are specified for deposit into a county or municipal indigent 41444  
drivers alcohol treatment fund by section 4511.193 of the Revised 41445  
Code shall be deposited into that county indigent drivers alcohol 41446  
treatment fund, county juvenile indigent drivers alcohol treatment 41447  
fund, or municipal indigent drivers alcohol treatment fund in 41448  
accordance with division (N)(2) of this section. Additionally, all 41449  
portions of fines that are paid for a violation of section 4511.19 41450  
of the Revised Code or division (B)(2) of section 4507.02 of the 41451  
Revised Code, and that are required under division (A)(1), (2), 41452  
(5), or (6) of section 4511.99 or division (B)(5) of section 41453  
4507.99 of the Revised Code to be deposited into a county indigent 41454  
drivers alcohol treatment fund or municipal indigent drivers 41455  
alcohol treatment fund shall be deposited into the appropriate 41456  
fund in accordance with the applicable division. 41457

(2) That portion of the license reinstatement fee that is 41458  
paid under division (L) of this section and that is credited under 41459  
that division to the indigent drivers alcohol treatment fund shall 41460  
be deposited into a county indigent drivers alcohol treatment 41461  
fund, a county juvenile indigent drivers alcohol treatment fund, 41462  
or a municipal indigent drivers alcohol treatment fund as follows: 41463

(a) If the suspension in question was imposed under this 41464  
section, that portion of the fee shall be deposited as follows: 41465

(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 41497  
offender by reason of, a violation of division (A) of section 41498  
4511.19 of the Revised Code or a substantially similar municipal 41499  
ordinance, who is ordered by the court to attend the alcohol and 41500  
drug addiction treatment program, and who is determined by the 41501  
court to be unable to pay the cost of attendance at the treatment 41502  
program or for payment of the costs specified in division (N)(4) 41503  
of this section in accordance with that division. The alcohol and 41504  
drug addiction services board or the board of alcohol, drug 41505  
addiction, and mental health services established pursuant to 41506  
section 340.02 or 340.021 of the Revised Code and serving the 41507  
alcohol, drug addiction, and mental health service district in 41508  
which the court is located shall administer the indigent drivers 41509  
alcohol treatment program of the court. When a court orders an 41510  
offender or juvenile traffic offender to attend an alcohol and 41511  
drug addiction treatment program, the board shall determine which 41512  
program is suitable to meet the needs of the offender or juvenile 41513  
traffic offender, and when a suitable program is located and space 41514  
is available at the program, the offender or juvenile traffic 41515  
offender shall attend the program designated by the board. A 41516  
reasonable amount not to exceed five per cent of the amounts 41517  
credited to and deposited into the county indigent drivers alcohol 41518  
treatment fund, the county juvenile indigent drivers alcohol 41519  
treatment fund, or the municipal indigent drivers alcohol 41520  
treatment fund serving every court whose program is administered 41521  
by that board shall be paid to the board to cover the costs it 41522  
incurs in administering those indigent drivers alcohol treatment 41523  
programs. 41524

(4) If a county, juvenile, or municipal court determines, in 41525  
consultation with the alcohol and drug addiction services board or 41526  
the board of alcohol, drug addiction, and mental health services 41527  
established pursuant to section 340.02 or 340.021 of the Revised 41528  
Code and serving the alcohol, drug addiction, and mental health 41529



district in which the court is located, that the funds in the 41530  
county indigent drivers alcohol treatment fund, the county 41531  
juvenile indigent drivers alcohol treatment fund, or the municipal 41532  
indigent drivers alcohol treatment fund under the control of the 41533  
court are more than sufficient to satisfy the purpose for which 41534  
the fund was established, as specified in divisions (N)(1) to (3) 41535  
of this section, the court may declare a surplus in the fund. If 41536  
the court declares a surplus in the fund, the court may expend the 41537  
amount of the surplus in the fund for alcohol and drug abuse 41538  
assessment and treatment of persons who are charged in the court 41539  
with committing a criminal offense or with being a delinquent 41540  
child or juvenile traffic offender and in relation to whom both of 41541  
the following apply: 41542

(a) The court determines that substance abuse was a 41543  
contributing factor leading to the criminal or delinquent activity 41544  
or the juvenile traffic offense with which the person is charged. 41545

(b) The court determines that the person is unable to pay the 41546  
cost of the alcohol and drug abuse assessment and treatment for 41547  
which the surplus money will be used. 41548

Sec. 4511.198. If the United States congress repeals the 41549  
mandate established by Title III, Section 351 of the "Department 41550  
of Transportation Appropriations Act of 2000," Public Law 106-346, 41551  
114 Stat. 1356, requiring the secretary of transportation, 41552  
beginning in fiscal year 2004, to withhold a percentage of a 41553  
state's federal-aid highway money if that state has not enacted 41554  
and is not enforcing a law that provides that any person with a 41555  
blood alcohol concentration of eight-hundredths of one per cent or 41556  
greater while operating a motor vehicle in the state is deemed to 41557  
have committed a per se offense of driving while intoxicated or an 41558  
equivalent per se offense, or if a federal court with jurisdiction 41559  
over the entirety of this state declares the mandate to be 41560

unconstitutional or otherwise invalid, then, in lieu of the 41561  
prohibited alcohol concentrations specified in sections 1547.11, 41562  
4511.19, 4511.191, and 4511.197 of the Revised Code, the 41563  
prohibited concentrations shall be as follows: 41564

(A) The prohibited alcohol concentration in a person's whole 41565  
blood is ten-hundredths of one per cent by weight of alcohol per 41566  
unit volume. 41567

(B) The prohibited alcohol concentration in a person's breath 41568  
is ten-hundredths of one gram by weight of alcohol per two hundred 41569  
ten liters of breath. 41570

(C) The prohibited alcohol concentration in a person's blood 41571  
serum or plasma is twelve-hundredths of one per cent by weight per 41572  
unit volume. 41573

(D) The prohibited alcohol concentration in a person's urine 41574  
is fourteen-hundredths of one gram by weight of alcohol per one 41575  
hundred milliliters of urine. 41576

**Sec. 4511.33.** Whenever any roadway has been divided into two 41577  
or more clearly marked lanes for traffic, or wherever within 41578  
municipal corporations traffic is lawfully moving in two or more 41579  
substantially continuous lines in the same direction, the 41580  
following rules apply: 41581

(A) A vehicle or trackless trolley shall be driven, as nearly 41582  
as is practicable, entirely within a single lane or line of 41583  
traffic and shall not be moved from such lane or line until the 41584  
driver has first ascertained that such movement can be made with 41585  
safety. 41586

(B) Upon a roadway which is divided into three lanes and 41587  
provides for two-way movement of traffic, a vehicle or trackless 41588  
trolley shall not be driven in the center lane except when 41589  
overtaking and passing another vehicle or trackless trolley where 41590

the roadway is clearly visible and such center lane is clear of 41591  
traffic within a safe distance, or when preparing for a left turn, 41592  
or where such center lane is at the time allocated exclusively to 41593  
traffic moving in the direction the vehicle or trackless trolley 41594  
is proceeding and is posted with signs to give notice of such 41595  
allocation. 41596

(C) Official signs may be erected directing specified traffic 41597  
to use a designated lane or designating those lanes to be used by 41598  
traffic moving in a particular direction regardless of the center 41599  
of the roadway, or restricting the use of a particular lane to 41600  
only buses during certain hours or during all hours, and drivers 41601  
of vehicles and trackless trolleys shall obey the directions of 41602  
such signs. 41603

(D) Official traffic control devices may be installed 41604  
prohibiting the changing of lanes on sections of roadway and 41605  
drivers of vehicles shall obey the directions of every such 41606  
device. 41607

**Sec. 4519.55.** Application for a certificate of title for an 41608  
off-highway motorcycle or all-purpose vehicle shall be made upon a 41609  
form prescribed by the registrar of motor vehicles and shall be 41610  
sworn to before a notary public or other officer empowered to 41611  
administer oaths. The application shall be filed with the clerk of 41612  
any court of common pleas. An application for a certificate of 41613  
title may be filed electronically by any electronic means approved 41614  
by the registrar in any county with the clerk of the court of 41615  
common pleas of that county. 41616

If an application for a certificate of title is filed 41617  
electronically by an electronic dealer on behalf of the purchaser 41618  
of an off-highway motorcycle or all-purpose vehicle, the clerk 41619  
shall retain the completed electronic record to which the dealer 41620  
converted the certificate of title application and other required 41621

documents. The electronic dealer shall ~~forward~~ retain the actual 41622  
original title application and ~~all other~~ documents relating to the 41623  
~~sale of the off-highway motorcycle or all-purpose vehicle to any~~ 41624  
~~clerk within thirty days after the certificate of title is issued.~~ 41625  
~~The registrar, after consultation with the attorney general, shall~~ 41626  
~~adopt rules that govern the location at which, and the manner in~~ 41627  
~~which, are stored the actual application and all other documents~~ 41628  
~~relating to the sale of an off-highway motorcycle or all-purpose~~ 41629  
~~vehicle when an electronic dealer files the application for a~~ 41630  
~~certificate of title electronically on behalf of the purchaser for~~ 41631  
~~a period of time determined by the registrar and shall make all of~~ 41632  
~~the documents available for inspection by the registrar upon the~~ 41633  
~~registrar's request.~~ 41634

The application shall be accompanied by the fee prescribed in 41635  
section 4519.59 of the Revised Code. The fee shall be retained by 41636  
the clerk who issues the certificate of title and shall be 41637  
distributed in accordance with that section. If a clerk of a court 41638  
of common pleas, other than the clerk of the court of common pleas 41639  
of an applicant's county of residence, issues a certificate of 41640  
title to the applicant, the clerk shall transmit data related to 41641  
the transaction to the automated title processing system. 41642

If a certificate of title previously has been issued for an 41643  
off-highway motorcycle or all-purpose vehicle, the application 41644  
also shall be accompanied by the certificate of title duly 41645  
assigned, unless otherwise provided in this chapter. If a 41646  
certificate of title previously has not been issued for the 41647  
off-highway motorcycle or all-purpose vehicle, the application, 41648  
unless otherwise provided in this chapter, shall be accompanied by 41649  
a manufacturer's or importer's certificate; by a sworn statement 41650  
of ownership; or by a certificate of title, bill of sale, or other 41651  
evidence of ownership required by law of another state from which 41652  
the off-highway motorcycle or all-purpose vehicle was brought into 41653

this state. The registrar, in accordance with Chapter 119. of the 41654  
Revised Code, shall prescribe the types of additional 41655  
documentation sufficient to establish proof of ownership, 41656  
including, but not limited to, receipts from the purchase of parts 41657  
or components, photographs, and affidavits of other persons. 41658

For purposes of the transfer of a certificate of title, if 41659  
the clerk is satisfied that a secured party has duly discharged a 41660  
lien notation but has not canceled the lien notation with a clerk, 41661  
the clerk may cancel the lien notation on the automated title 41662  
processing system and notify the clerk of the county of origin. 41663

In the case of the sale of an off-highway motorcycle or 41664  
all-purpose vehicle by a dealer to a general purchaser or user, 41665  
the certificate of title shall be obtained in the name of the 41666  
purchaser by the dealer upon application signed by the purchaser. 41667  
In all other cases, the certificate shall be obtained by the 41668  
purchaser. In all cases of transfer of an off-highway motorcycle 41669  
or all-purpose vehicle, the application for certificate of title 41670  
shall be filed within thirty days after the later of the date of 41671  
purchase or assignment of ownership of the off-highway motorcycle 41672  
or all-purpose vehicle. If the application for certificate of 41673  
title is not filed within thirty days after the later of the date 41674  
of purchase or assignment of ownership of the off-highway 41675  
motorcycle or all-purpose vehicle, the clerk shall charge a late 41676  
filing fee of five dollars in addition to the fee prescribed by 41677  
section 4519.59 of the Revised Code. The clerk shall retain the 41678  
entire amount of each late filing fee. 41679

Except in the case of an off-highway motorcycle or 41680  
all-purpose vehicle purchased prior to July 1, 1999, the clerk 41681  
shall refuse to accept an application for certificate of title 41682  
unless the applicant either tenders with the application payment 41683  
of all taxes levied by or pursuant to Chapter 5739. or 5741. of 41684  
the Revised Code based on the purchaser's county of residence, or 41685

submits either of the following: 41686

(A) A receipt issued by the tax commissioner or a clerk of 41687  
courts showing payment of the tax; 41688

(B) An exemption certificate, in any form prescribed by the 41689  
tax commissioner, that specifies why the purchase is not subject 41690  
to the tax imposed by Chapter 5739. or 5741. of the Revised Code. 41691

Payment of the tax shall be made in accordance with division 41692  
(E) of section 4505.06 of the Revised Code and any rules issued by 41693  
the tax commissioner. When a dealer submits payment of the tax to 41694  
the clerk, the dealer shall retain any discount to which the 41695  
dealer is entitled under section 5739.12 of the Revised Code. The 41696  
clerk shall issue a receipt in the form prescribed by the tax 41697  
commissioner to any applicant who tenders payment of the tax with 41698  
the application for a certificate of title. If the application for 41699  
a certificate of title is for an off-highway motorcycle or 41700  
all-purpose vehicle purchased prior to July 1, 1999, the clerk 41701  
shall accept the application without payment of the taxes levied 41702  
by or pursuant to Chapter 5739. or 5741. of the Revised Code or 41703  
presentation of either of the items listed in division (A) or (B) 41704  
of this section. 41705

For receiving and disbursing such taxes paid to the clerk by 41706  
a resident of the clerk's county, the clerk may retain a poundage 41707  
fee of one and one-hundredth per cent of the taxes collected, 41708  
which shall be paid into the certificate of title administration 41709  
fund created by section 325.33 of the Revised Code. The clerk 41710  
shall not retain a poundage fee from payments of taxes by persons 41711  
who do not reside in the clerk's county. 41712

A clerk, however, may retain from the taxes paid to the clerk 41713  
an amount equal to the poundage fees associated with certificates 41714  
of title issued by other clerks of courts of common pleas to 41715  
applicants who reside in the first clerk's county. The registrar, 41716

in consultation with the tax commissioner and the clerks of the 41717  
courts of common pleas, shall develop a report from the automated 41718  
title processing system that informs each clerk of the amount of 41719  
the poundage fees that the clerk is permitted to retain from those 41720  
taxes because of certificates of title issued by the clerks of 41721  
other counties to applicants who reside in the first clerk's 41722  
county. 41723

In the case of casual sales of off-highway motorcycles or 41724  
all-purpose vehicles that are subject to the tax imposed by 41725  
Chapter 5739. or 5741. of the Revised Code, the purchase price for 41726  
the purpose of determining the tax shall be the purchase price on 41727  
an affidavit executed and filed with the clerk by the seller on a 41728  
form to be prescribed by the registrar, which shall be prima-facie 41729  
evidence of the price for the determination of the tax. 41730

In addition to the information required by section 4519.57 of 41731  
the Revised Code, each certificate of title shall contain in bold 41732  
lettering the following notification and statements: "WARNING TO 41733  
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by 41734  
law to state the true selling price. A false statement is in 41735  
violation of section 2921.13 of the Revised Code and is punishable 41736  
by six months imprisonment or a fine of up to one thousand 41737  
dollars, or both. All transfers are audited by the department of 41738  
taxation. The seller and buyer must provide any information 41739  
requested by the department of taxation. The buyer may be assessed 41740  
any additional tax found to be due." 41741

The clerk shall forward all payments of taxes, less poundage 41742  
fees, to the treasurer of state in a manner to be prescribed by 41743  
the tax commissioner and shall furnish information to the 41744  
commissioner as the commissioner may require. 41745

Every clerk shall have the capability to transact by 41746  
electronic means all procedures and transactions relating to the 41747  
issuance of certificates of title for off-highway motorcycles and 41748

all-purpose vehicles that are described in the Revised Code as 41749  
being accomplished by electronic means. 41750

**Sec. 4707.071.** (A) On May 1, 1991, all persons licensed as 41751  
auction companies under former section 4707.071 of the Revised 41752  
Code shall comply with all provisions of this chapter that are 41753  
applicable to auctioneers except as provided in divisions (B) and 41754  
(C) of this section. Such persons, however, do not have to serve 41755  
an apprenticeship or attend a course of study under section 41756  
4707.09 of the Revised Code or submit to an examination under 41757  
section 4707.08 of the Revised Code as long as they do not engage 41758  
in the calling for, recognition of, and the acceptance of, offers 41759  
for the purchase of personal property at auction and do not 41760  
conduct auctions at any location other than the definite place of 41761  
business required in section 4707.14 of the Revised Code. 41762

(B) The principal owner of each auction company ~~which~~ that is 41763  
licensed as of May 1, 1991, who pays the annual renewal fee 41764  
specified in division ~~(A)~~(B) of section 4707.10 of the Revised 41765  
Code during the first renewal period following May 1, 1991, shall 41766  
be issued a special auctioneer's license, for the sale of personal 41767  
property subject to division (A) of this section. Each principal 41768  
owner shall apply for an annual license. In applying for an annual 41769  
license, each person licensed as an auction company on May 1, 41770  
1991, shall designate an individual as principal owner by 41771  
submitting documentation substantiating that the individual is in 41772  
fact the principal owner and shall identify a definite place of 41773  
business as required in section 4707.14 of the Revised Code. A 41774  
person licensed as an auctioneer shall not be entitled to a 41775  
special auctioneer's license. 41776

(C) A special auctioneer's license issued under this section 41777  
to the principal owner of a former auction company does not 41778  
entitle the principal owner or former auction company to conduct 41779



auctions at any location other than the definite place of business 41780  
required in section 4707.14 of the Revised Code. Notwithstanding 41781  
section 4707.10 of the Revised Code, the department of agriculture 41782  
shall not issue a new special auctioneer's license if the definite 41783  
place of business identified by the licensee in the licensee's 41784  
initial application for a special auctioneer license has changed 41785  
or if the name under which the licensee is doing business has 41786  
changed. No person other than an owner, officer, member, or agent 41787  
of the former auction company who personally has passed the 41788  
examination prescribed in section 4707.08 of the Revised Code and 41789  
been licensed as an auctioneer shall engage in the calling for, 41790  
recognition of, and the acceptance of, offers for the purchase of 41791  
real or personal property, goods, or chattels at auction in 41792  
connection with a former auction company that has been issued a 41793  
special auctioneer's license. 41794

(D) A person licensed as a special auctioneer shall not 41795  
engage in the sale of real property at auction. 41796

**Sec. 4707.072.** (A) For purposes of this section, the 41797  
department of agriculture shall adopt rules in accordance with 41798  
section 4707.19 of the Revised Code prescribing the fee that a 41799  
license applicant must pay. Until those rules are adopted, a 41800  
license applicant shall pay the fee established in this section. 41801

(B) The department ~~of agriculture~~ may grant one-auction 41802  
licenses to any nonresident person deemed qualified by the 41803  
department. Any person who applies for a one-auction license shall 41804  
attest, on forms provided by the department, and furnish to the 41805  
department, satisfactory proof that the license applicant or any 41806  
auctioneer affiliated with the applicant meets the following 41807  
requirements: 41808

~~(A)~~(1) Has a good reputation; 41809

~~(B)~~(2) Is of trustworthy character; 41810

~~(C)~~(3) Has attained the age of at least eighteen years; 41811

~~(D)~~(4) Has a general knowledge of the requirements of the 41812  
Revised Code relative to auctioneers, the auction profession, and 41813  
the principles involved in conducting an auction; 41814

~~(E)~~(5) Has two years of professional auctioneering experience 41815  
immediately preceding the date of application and the experience 41816  
includes the personal conduct by the applicant of at least twelve 41817  
auction sales in any state, or has met the requirements of section 41818  
4707.12 of the Revised Code; 41819

~~(F)~~(6) Has paid a fee of one hundred dollars, ~~which shall be~~ 41820  
~~credited to the auctioneers fund;~~ 41821

~~(G)~~(7) Has provided proof of financial responsibility as 41822  
~~required under section 4707.11 of the Revised Code in the form of~~ 41823  
either an irrevocable letter of credit or a cash bond or a surety 41824  
bond in the amount of fifty thousand dollars. If the applicant 41825  
gives a surety bond, the bond shall be executed by a surety 41826  
company authorized to do business in this state. A bond shall be 41827  
made to the department and shall be conditioned that the applicant 41828  
shall comply with this chapter and rules adopted under it, 41829  
including refraining from conduct described in section 4707.15 of 41830  
the Revised Code. All bonds shall be on a form approved by the 41831  
director of agriculture. 41832

**Sec. 4707.10.** (A) For purposes of this section, the 41833  
department of agriculture shall adopt rules in accordance with 41834  
section 4707.19 of the Revised Code prescribing fees that 41835  
licensees must pay and license renewal deadlines and procedures 41836  
with which licensees must comply. Until those rules are adopted, 41837  
licensees shall pay the fees and comply with the license renewal 41838  
deadlines and procedures established in this section. 41839

(B) The fee for each auctioneer's, apprentice auctioneer's, 41840

or special auctioneer's license issued by the department of ~~of~~ 41841  
~~agriculture~~ is one hundred dollars, and the annual renewal fee for 41842  
any such license is one hundred dollars. All licenses expire 41843  
annually on the last day of June of each year and shall be renewed 41844  
according to the standard renewal procedures of Chapter 4745. of 41845  
the Revised Code, or the procedures of this section. Any licensee 41846  
under this chapter who wishes to renew the licensee's license, but 41847  
fails to do so before the first day of July shall reapply for 41848  
licensure in the same manner and pursuant to the same requirements 41849  
as for initial licensure, unless before the first day of September 41850  
of the year of expiration, the former licensee pays to the 41851  
department, in addition to the regular renewal fee, a late renewal 41852  
penalty of one hundred dollars. 41853

~~(B)~~(C) Any person who fails to renew the person's license 41854  
before the first day of July is prohibited from engaging in any 41855  
activity specified or comprehended in section 4707.01 of the 41856  
Revised Code until such time as the person's license is renewed or 41857  
a new license is issued. Renewal of a license between the first 41858  
day of July and the first day of September does not relieve any 41859  
person from complying with this division. The department may 41860  
refuse to renew the license of or issue a new license to any 41861  
person who violates this division. 41862

~~(C)~~(D) The department shall prepare and deliver to each 41863  
licensee a permanent license certificate and an ~~annual renewal~~ 41864  
identification card, the appropriate portion of which shall be 41865  
carried on the person of the licensee at all times when engaged in 41866  
any type of auction activity, and part of which shall be posted 41867  
with the permanent certificate in a conspicuous location at the 41868  
licensee's place of business. 41869

~~(D)~~(E) Notice in writing shall be given to the department by 41870  
each auctioneer or apprentice auctioneer licensee of any change of 41871  
principal business location or any change or addition to the name 41872

or names under which business is conducted, whereupon the 41873  
department shall issue a new license for the unexpired period. Any 41874  
change of business location or change or addition of names without 41875  
notification to the department shall automatically cancel any 41876  
license previously issued. For each new auctioneer or apprentice 41877  
auctioneer license issued upon the occasion of a change in 41878  
business location or a change in or an addition of names under 41879  
which business is conducted, the department may collect a fee of 41880  
ten dollars for each change in location, or name or each added 41881  
name unless the notification of the change occurs concurrently 41882  
with the renewal application. 41883

Sec. 4707.24. Except for the purposes of divisions (A) and 41884  
(B) of section 4707.25 of the Revised Code, sections 4707.25 to 41885  
4707.31 of the Revised Code do not apply with respect to a license 41886  
issued under section 4707.072 of the Revised Code. 41887

**Sec. 4709.12.** (A) The barber board shall charge and collect 41888  
the following fees: 41889

(1) For the application to take the barber examination, ~~sixty~~ 41890  
ninety dollars; 41891

(2) For an application to retake any part of the barber 41892  
examination, ~~thirty~~ forty-five dollars; 41893

(3) For the initial issuance of a license to practice as a 41894  
barber, ~~twenty~~ thirty dollars; 41895

(4) For the biennial renewal of the license to practice as a 41896  
barber, ~~seventy-five~~ one hundred ten dollars; 41897

(5) For the restoration of an expired barber license, one 41898  
hundred dollars, and ~~fifty~~ seventy-five dollars for each lapsed 41899  
year, provided that the total fee shall not exceed ~~four~~ six 41900  
hundred ~~sixty~~ ninety dollars; 41901

(6) For the issuance of a duplicate barber or shop license,	41902
<del>thirty</del> <u>forty-five</u> dollars;	41903
(7) For the inspection of a new barber shop, change of	41904
ownership, or reopening of premises or facilities formerly	41905
operated as a barber shop, and issuance of a shop license,	41906
<del>seventy-five</del> <u>one hundred ten</u> dollars;	41907
(8) For the biennial renewal of a barber shop license, <del>fifty</del>	41908
<u>seventy-five</u> dollars;	41909
(9) For the restoration of a barber shop license,	41910
<del>seventy-five</del> <u>one hundred ten</u> dollars;	41911
(10) For each inspection of premises for location of a new	41912
barber school, or each inspection of premises for relocation of a	41913
currently licensed barber school, <del>five</del> <u>seven</u> hundred <u>fifty</u>	41914
dollars;	41915
(11) For the initial barber school license, <del>five hundred</del> <u>one</u>	41916
<u>thousand</u> dollars, and <del>five hundred</del> <u>one thousand</u> dollars for the	41917
renewal of the license;	41918
(12) For the restoration of a barber school license, <del>six</del>	41919
<del>hundred</del> <u>one thousand</u> dollars;	41920
(13) For the issuance of a student registration, <del>twenty-five</del>	41921
<u>forty</u> dollars;	41922
(14) For the examination and issuance of a biennial teacher	41923
<del>or assistant teacher</del> license, one hundred <del>twenty-five</del> <u>eighty-five</u>	41924
dollars;	41925
(15) For the renewal of a biennial teacher <del>or assistant</del>	41926
<del>teacher</del> license, one hundred <u>fifty</u> dollars;	41927
(16) For the restoration of an expired teacher <del>or assistant</del>	41928
<del>teacher</del> license, <del>one</del> <u>two</u> hundred <del>fifty</del> <u>twenty-five</u> dollars, and	41929
<del>forty</del> <u>sixty</u> dollars for each lapsed year, provided that the total	41930
fee shall not exceed <del>three</del> <u>four</u> hundred <u>fifty</u> dollars;	41931

(17) For the issuance of a barber license by reciprocity	41932
pursuant to section 4709.08 of the Revised Code, <del>two</del> <u>three</u> hundred	41933
dollars;	41934
(18) For providing licensure information concerning an	41935
applicant, upon written request of the applicant, <del>twenty-five</del>	41936
<u>forty</u> dollars.	41937
(B) The board, subject to the approval of the controlling	41938
board, may establish fees in excess of the amounts provided in	41939
this section, provided that the fees do not exceed the amounts	41940
permitted by this section by more than fifty per cent.	41941
<b>Sec. 4717.07.</b> (A) The board of embalmers and funeral	41942
directors shall charge and collect the following fees:	41943
(1) For the <u>initial</u> issuance <u>or biennial renewal</u> of an	41944
<del>initial</del> embalmer's or funeral director's license, <del>five</del> <u>one hundred</u>	41945
<u>forty</u> dollars;	41946
(2) For the issuance of an embalmer or funeral director	41947
registration, <del>twenty-five</del> <u>one hundred</u> dollars;	41948
(3) For filing an embalmer or funeral director certificate of	41949
apprenticeship, <del>ten</del> <u>fifty</u> dollars;	41950
(4) For the application to take the examination for a license	41951
to practice as an embalmer or funeral director, or to retake a	41952
section of the examination, thirty-five dollars;	41953
(5) <del>For the biennial renewal of an embalmer's or funeral</del>	41954
<del>director's license, one hundred twenty dollars;</del>	41955
<del>(6)</del> For the initial issuance of a license to operate a	41956
funeral home, <del>one</del> <u>two</u> hundred <del>twenty-five</del> <u>fifty</u> dollars and	41957
biennial renewal of a license to operate a funeral home, two	41958
hundred fifty dollars;	41959
<del>(7)</del> <u>(6)</u> For the reinstatement of a lapsed embalmer's or	41960

funeral director's license, the renewal fee prescribed in division 41961  
(A)(5) of this section plus fifty dollars for each month or 41962  
portion of a month the license is lapsed until reinstatement; 41963

~~(8)~~(7) For the reinstatement of a lapsed license to operate a 41964  
funeral home, the renewal fee prescribed in division (A)(6) of 41965  
this section plus fifty dollars for each month or portion of a 41966  
month the license is lapsed until reinstatement; 41967

~~(9)~~(8) For the initial issuance of a license to operate an 41968  
embalming facility, ~~one~~ two hundred dollars and biennial renewal 41969  
of a license to operate an embalming facility, two hundred 41970  
dollars; 41971

~~(10)~~(9) For the reinstatement of a lapsed license to operate 41972  
an embalming facility, the renewal fee prescribed in division 41973  
(A)(9) of this section plus fifty dollars for each month or 41974  
portion of a month the license is lapsed until reinstatement; 41975

~~(11)~~(10) For the initial issuance of a license to operate a 41976  
crematory facility, ~~one~~ two hundred dollars and biennial renewal 41977  
of a license to operate a crematory facility, two hundred dollars; 41978

~~(12)~~(11) For the reinstatement of a lapsed license to operate 41979  
a crematory facility, the renewal fee prescribed in division 41980  
(A)(11) of this section plus fifty dollars for each month or 41981  
portion of a month the license is lapsed until reinstatement; 41982

~~(13)~~(12) For the issuance of a duplicate of a license issued 41983  
under this chapter, four dollars. 41984

(B) In addition to the fees set forth in division (A) of this 41985  
section, an applicant shall pay the examination fee assessed by 41986  
any examining agency the board uses for any section of an 41987  
examination required under this chapter. 41988

(C) Subject to the approval of the controlling board, the 41989  
board of embalmers and funeral directors may establish fees in 41990

excess of the amounts set forth in this section, provided that 41991  
these fees do not exceed the amounts set forth in this section by 41992  
more than fifty per cent. 41993

**Sec. 4717.09.** (A) Every two years, licensed embalmers and 41994  
funeral directors shall attend between twelve and thirty hours of 41995  
educational programs as a condition for renewal of their licenses. 41996  
The board of embalmers and funeral directors shall adopt rules 41997  
governing the administration and enforcement of the continuing 41998  
education requirements of this section. The board may contract 41999  
with a professional organization or association or other third 42000  
party to assist it in performing functions necessary to administer 42001  
and enforce the continuing education requirements of this section. 42002  
A professional organization or association or other third party 42003  
with whom the board so contracts may charge a reasonable fee for 42004  
performing these functions to licensees or to the persons who 42005  
provide continuing education programs. 42006

(B) A person holding both an embalmer's license and a funeral 42007  
director's license need meet only the continuing education 42008  
requirements established by the board for one or the other of 42009  
those licenses in order to satisfy the requirement of division (A) 42010  
of this section. 42011

(C) The board shall not renew the license of a licensee who 42012  
fails to meet the continuing education requirements of this 42013  
section and who has not been granted a waiver or exemption under 42014  
division (D) or (E) of this section. 42015

(D) Any licensee who fails to meet the continuing education 42016  
requirements of this section because of undue hardship or 42017  
disability, or who is not actively engaged in the practice of 42018  
funeral directing or embalming in this state, may apply to the 42019  
board for a waiver or an exemption. ~~The~~ 42020

(E) A licensee who has been an embalmer or a funeral director 42021



for not less than fifty years and is not actually in charge of an 42022  
embalming facility or funeral home may apply to the board for an 42023  
exemption. 42024

(F) The board shall determine, by rule, the procedures for 42025  
applying for a waiver or an exemption from continuing education 42026  
requirements under this section and under what conditions a waiver 42027  
or an exemption may be granted. 42028

**Sec. 4719.01.** (A) As used in sections 4719.01 to 4719.18 of 42029  
the Revised Code: 42030

(1) "Affiliate" means a business entity that is owned by, 42031  
operated by, controlled by, or under common control with another 42032  
business entity. 42033

(2) "Communication" means a written or oral notification or 42034  
advertisement that meets both of the following criteria, as 42035  
applicable: 42036

(a) The notification or advertisement is transmitted by or on 42037  
behalf of the seller of goods or services and by or through any 42038  
printed, audio, video, cinematic, telephonic, or electronic means. 42039

(b) In the case of a notification or advertisement other than 42040  
by telephone, either of the following conditions is met: 42041

(i) The notification or advertisement is followed by a 42042  
telephone call from a telephone solicitor or salesperson. 42043

(ii) The notification or advertisement invites a response by 42044  
telephone, and, during the course of that response, a telephone 42045  
solicitor or salesperson attempts to make or makes a sale of goods 42046  
or services. As used in division (A)(2)(b)(ii) of this section, 42047  
"invites a response by telephone" excludes the mere listing or 42048  
inclusion of a telephone number in a notification or 42049  
advertisement. 42050

(3) "Gift, award, or prize" means anything of value that is 42051

offered or purportedly offered, or given or purportedly given by 42052  
chance, at no cost to the receiver and with no obligation to 42053  
purchase goods or services. As used in this division, "chance" 42054  
includes a situation in which a person is guaranteed to receive an 42055  
item and, at the time of the offer or purported offer, the 42056  
telephone solicitor does not identify the specific item that the 42057  
person will receive. 42058

(4) "Goods or services" means any real property or any 42059  
tangible or intangible personal property, or services of any kind 42060  
provided or offered to a person. "Goods or services" includes, but 42061  
is not limited to, advertising; labor performed for the benefit of 42062  
a person; personal property intended to be attached to or 42063  
installed in any real property, regardless of whether it is so 42064  
attached or installed; timeshare estates or licenses; and extended 42065  
service contracts. 42066

(5) "Purchaser" means a person that is solicited to become or 42067  
does become financially obligated as a result of a telephone 42068  
solicitation. 42069

(6) "Salesperson" means an individual who is employed, 42070  
appointed, or authorized by a telephone solicitor to make 42071  
telephone solicitations but does not mean any of the following: 42072

(a) An individual who comes within one of the exemptions in 42073  
division (B) of this section; 42074

(b) An individual employed, appointed, or authorized by a 42075  
person who comes within one of the exemptions in division (B) of 42076  
this section; 42077

(c) An individual under a written contract with a person who 42078  
comes within one of the exemptions in division (B) of this 42079  
section, if liability for all transactions with purchasers is 42080  
assumed by the person so exempted. 42081

(7) "Telephone solicitation" means a communication to a 42082

person that meets both of the following criteria: 42083

(a) The communication is initiated by or on behalf of a 42084  
telephone solicitor or by a salesperson. 42085

(b) The communication either represents a price or the 42086  
quality or availability of goods or services or is used to induce 42087  
the person to purchase goods or services, including, but not 42088  
limited to, inducement through the offering of a gift, award, or 42089  
prize. 42090

(8) "Telephone solicitor" means a person that engages in 42091  
telephone solicitation directly or through one or more 42092  
salespersons either from a location in this state, or from a 42093  
location outside this state to persons in this state. "Telephone 42094  
solicitor" includes, but is not limited to, any such person that 42095  
is an owner, operator, officer, or director of, partner in, or 42096  
other individual engaged in the management activities of, a 42097  
business. 42098

(B) A telephone solicitor is exempt from the provisions of 42099  
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 42100  
Code if the telephone solicitor is any one of the following: 42101

(1) A person engaging in a telephone solicitation that is a 42102  
one-time or infrequent transaction not done in the course of a 42103  
pattern of repeated transactions of a like nature; 42104

(2) A person engaged in telephone solicitation solely for 42105  
religious or political purposes; a charitable organization, 42106  
fund-raising counsel, or professional solicitor in compliance with 42107  
the registration and reporting requirements of Chapter 1716. of 42108  
the Revised Code; or any person or other entity exempt under 42109  
section 1716.03 of the Revised Code from filing a registration 42110  
statement under section 1716.02 of the Revised Code; 42111

(3) A person, making a telephone solicitation involving a 42112  
home solicitation sale as defined in section 1345.21 of the 42113

Revised Code, that makes the sales presentation and completes the 42114  
sale at a later, face-to-face meeting between the seller and the 42115  
purchaser rather than during the telephone solicitation. However, 42116  
if the person, following the telephone solicitation, causes 42117  
another person to collect the payment of any money, this exemption 42118  
does not apply. 42119

(4) A licensed securities, commodities, or investment broker, 42120  
dealer, investment advisor, or associated person when making a 42121  
telephone solicitation within the scope of the person's license. 42122  
As used in division (B)(4) of this section, "licensed securities, 42123  
commodities, or investment broker, dealer, investment advisor, or 42124  
associated person" means a person subject to licensure or 42125  
registration as such by the securities and exchange commission; 42126  
the National Association of Securities Dealers or other 42127  
self-regulatory organization, as defined by 15 U.S.C.A. 78c; by 42128  
the division of securities under Chapter 1707. of the Revised 42129  
Code; or by an official or agency of any other state of the United 42130  
States. 42131

(5)(a) A person primarily engaged in soliciting the sale of a 42132  
newspaper of general circulation; 42133

(b) As used in division (B)(5)(a) of this section, "newspaper 42134  
of general circulation" includes, but is not limited to, both of 42135  
the following: 42136

(i) A newspaper that is a daily law journal designated as an 42137  
official publisher of court calendars pursuant to section 2701.09 42138  
of the Revised Code; 42139

(ii) A newspaper or publication that has at least twenty-five 42140  
per cent editorial, non-advertising content, exclusive of inserts, 42141  
measured relative to total publication space, and an audited 42142  
circulation to at least fifty per cent of the households in the 42143  
newspaper's retail trade zone as defined by the audit. 42144

(6)(a) An issuer, or its subsidiary, that has a class of securities to which all of the following apply: 42145  
42146

(i) The class of securities is subject to section 12 of the "Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is registered or is exempt from registration under 15 U.S.C.A. 781(g)(2)(A), (B), (C), (E), (F), (G), or (H); 42147  
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(ii) The class of securities is listed on the New York stock exchange, the American stock exchange, or the NASDAQ national market system; 42151  
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(iii) The class of securities is a reported security as defined in 17 C.F.R. 240.11Aa3-1(a)(4). 42154  
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(b) An issuer, or its subsidiary, that formerly had a class of securities that met the criteria set forth in division (B)(6)(a) of this section if the issuer, or its subsidiary, has a net worth in excess of one hundred million dollars, files or its parent files with the securities and exchange commission an S.E.C. form 10-K, and has continued in substantially the same business since it had a class of securities that met the criteria in division (B)(6)(a) of this section. As used in division (B)(6)(b) of this section, "issuer" and "subsidiary" include the successor to an issuer or subsidiary. 42156  
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(7) A person soliciting a transaction regulated by the commodity futures trading commission, if the person is registered or temporarily registered for that activity with the commission under 7 U.S.C.A. 1 et. seq. and the registration or temporary registration has not expired or been suspended or revoked; 42166  
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(8) A person soliciting the sale of any book, record, audio tape, compact disc, or video, if the person allows the purchaser to review the merchandise for at least seven days and provides a full refund within thirty days to a purchaser who returns the merchandise or if the person solicits the sale on behalf of a 42171  
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membership club operating in compliance with regulations adopted 42176  
by the federal trade commission in 16 C.F.R. 425; 42177

(9) A supervised financial institution or its subsidiary. As 42178  
used in division (B)(9) of this section, "supervised financial 42179  
institution" means a bank, trust company, savings and loan 42180  
association, savings bank, credit union, industrial loan company, 42181  
consumer finance lender, commercial finance lender, or institution 42182  
described in section 2(c)(2)(F) of the "Bank Holding Company Act 42183  
of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an 42184  
official or agency of the United States, this state, or any other 42185  
state of the United States; or a licensee or registrant under 42186  
sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 42187  
1321.83 of the Revised Code. 42188

(10)(a) An insurance company, association, or other 42189  
organization that is licensed or authorized to conduct business in 42190  
this state by the superintendent of insurance pursuant to Title 42191  
XXXIX of the Revised Code or Chapter 1751. of the Revised Code, 42192  
when soliciting within the scope of its license or authorization. 42193

(b) A licensed insurance broker, agent, or solicitor when 42194  
soliciting within the scope of the person's license. As used in 42195  
division (B)(10)(b) of this section, "licensed insurance broker, 42196  
agent, or solicitor" means any person licensed as an insurance 42197  
broker, agent, or solicitor by the superintendent of insurance 42198  
pursuant to Title XXXIX of the Revised Code. 42199

(11) A person soliciting the sale of services provided by a 42200  
cable television system operating under authority of a 42201  
governmental franchise or permit; 42202

(12) A person soliciting a business-to-business sale under 42203  
which any of the following conditions are met: 42204

(a) The telephone solicitor has been operating continuously 42205  
for at least three years under the same business name under which 42206

it solicits purchasers, and at least fifty-one per cent of its 42207  
gross dollar volume of sales consists of repeat sales to existing 42208  
customers to whom it has made sales under the same business name. 42209

(b) The purchaser business intends to resell the goods 42210  
purchased. 42211

(c) The purchaser business intends to use the goods or 42212  
services purchased in a recycling, reuse, manufacturing, or 42213  
remanufacturing process. 42214

(d) The telephone solicitor is a publisher of a periodical or 42215  
of magazines distributed as controlled circulation publications as 42216  
defined in division (CC) of section 5739.01 of the Revised Code 42217  
and is soliciting sales of advertising, subscriptions, reprints, 42218  
lists, information databases, conference participation or 42219  
sponsorships, trade shows or media products related to the 42220  
periodical or magazine, or other publishing services provided by 42221  
the controlled circulation publication. 42222

(13) A person that, not less often than once each year, 42223  
publishes and delivers to potential purchasers a catalog that 42224  
complies with both of the following: 42225

(a) It includes all of the following: 42226

(i) The business address of the seller; 42227

(ii) A written description or illustration of each good or 42228  
service offered for sale; 42229

(iii) A clear and conspicuous disclosure of the sale price of 42230  
each good or service; shipping, handling, and other charges; and 42231  
return policy; 42232

(b) One of the following applies: 42233

(i) The catalog includes at least twenty-four pages of 42234  
written material and illustrations, is distributed in more than 42235  
one state, and has an annual postage-paid mail circulation of not 42236

less than two hundred fifty thousand households; 42237

(ii) The catalog includes at least ten pages of written 42238  
material or an equivalent amount of material in electronic form on 42239  
the internet or an on-line computer service, the person does not 42240  
solicit customers by telephone but solely receives telephone calls 42241  
made in response to the catalog, and during the calls the person 42242  
takes orders but does not engage in further solicitation of the 42243  
purchaser. As used in division (B)(13)(b)(ii) of this section, 42244  
"further solicitation" does not include providing the purchaser 42245  
with information about, or attempting to sell, any other item in 42246  
the catalog that prompted the purchaser's call or in a 42247  
substantially similar catalog issued by the seller. 42248

(14) A political subdivision or instrumentality of the United 42249  
States, this state, or any state of the United States; 42250

(15) A college or university or any other public or private 42251  
institution of higher education in this state; 42252

(16) A public utility as defined in section 4905.02 of the 42253  
Revised Code or a retail natural gas supplier as defined in 42254  
section 4929.01 of the Revised Code, if the utility or supplier is 42255  
subject to regulation by the public utilities commission, or the 42256  
affiliate of the utility or supplier; 42257

~~(17) A travel agency or tour promoter that is registered in 42258  
compliance with section 1333.96 of the Revised Code when 42259  
soliciting within the scope of the agency's or promoter's 42260  
registration; 42261~~

~~(18) A person that solicits sales through a television 42262  
program or advertisement that is presented in the same market area 42263  
no fewer than twenty days per month or offers for sale no fewer 42264  
than ten distinct items of goods or services; and offers to the 42265  
purchaser an unconditional right to return any good or service 42266  
purchased within a period of at least seven days and to receive a 42267~~



full refund within thirty days after the purchaser returns the 42268  
good or cancels the service; 42269

~~(19)~~(18)(a) A person that, for at least one year, has been 42270  
operating a retail business under the same name as that used in 42271  
connection with telephone solicitation and both of the following 42272  
occur on a continuing basis: 42273

(i) The person either displays goods and offers them for 42274  
retail sale at the person's business premises or offers services 42275  
for sale and provides them at the person's business premises. 42276

(ii) At least fifty-one per cent of the person's gross dollar 42277  
volume of retail sales involves purchases of goods or services at 42278  
the person's business premises. 42279

(b) An affiliate of a person that meets the requirements in 42280  
division (B)~~(19)~~(18)(a) of this section if the affiliate meets all 42281  
of the following requirements: 42282

(i) The affiliate has operated a retail business for a period 42283  
of less than one year; 42284

(ii) The affiliate either displays goods and offers them for 42285  
retail sale at the affiliate's business premises or offers 42286  
services for sale and provides them at the affiliate's business 42287  
premises; 42288

(iii) At least fifty-one per cent of the affiliate's gross 42289  
dollar volume of retail sales involves purchases of goods or 42290  
services at the affiliate's business premises. 42291

(c) A person that, for a period of less than one year, has 42292  
been operating a retail business in this state under the same name 42293  
as that used in connection with telephone solicitation, as long as 42294  
all of the following requirements are met: 42295

(i) The person either displays goods and offers them for 42296  
retail sale at the person's business premises or offers services 42297

for sale and provides them at the person's business premises; 42298

(ii) The goods or services that are the subject of telephone 42299  
solicitation are sold at the person's business premises, and at 42300  
least sixty-five per cent of the person's gross dollar volume of 42301  
retail sales involves purchases of goods or services at the 42302  
person's business premises; 42303

(iii) The person conducts all telephone solicitation 42304  
activities according to sections 310.3, 310.4, and 310.5 of the 42305  
telemarketing sales rule adopted by the federal trade commission 42306  
in 16 C.F.R. part 310. 42307

~~(20)~~(19) A person who performs telephone solicitation sales 42308  
services on behalf of other persons and to whom one of the 42309  
following applies: 42310

(a) The person has operated under the same ownership, 42311  
control, and business name for at least five years, and the person 42312  
receives at least seventy-five per cent of its gross revenues from 42313  
written telephone solicitation contracts with persons who come 42314  
within one of the exemptions in division (B) of this section. 42315

(b) The person is an affiliate of one or more exempt persons 42316  
and makes telephone solicitations on behalf of only the exempt 42317  
persons of which it is an affiliate. 42318

(c) The person makes telephone solicitations on behalf of 42319  
only exempt persons, the person and each exempt person on whose 42320  
behalf telephone solicitations are made have entered into a 42321  
written contract that specifies the manner in which the telephone 42322  
solicitations are to be conducted and that at a minimum requires 42323  
compliance with the telemarketing sales rule adopted by the 42324  
federal trade commission in 16 C.F.R. part 310, and the person 42325  
conducts the telephone solicitations in the manner specified in 42326  
the written contract. 42327

(d) The person performs telephone solicitation for religious 42328

or political purposes, a charitable organization, a fund-raising 42329  
council, or a professional solicitor in compliance with the 42330  
registration and reporting requirements of Chapter 1716. of the 42331  
Revised Code; and meets all of the following requirements: 42332

(i) The person has operated under the same ownership, 42333  
control, and business name for at least five years, and the person 42334  
receives at least fifty-one per cent of its gross revenues from 42335  
written telephone solicitation contracts with persons who come 42336  
within the exemption in division (B)(2) of this section; 42337

(ii) The person does not conduct a prize promotion or offer 42338  
the sale of an investment opportunity; and 42339

(iii) The person conducts all telephone solicitation 42340  
activities according to sections 310.3, 310.4, and 310.5 of the 42341  
telemarketing sales rules adopted by the federal trade commission 42342  
in 16 C.F.R. part 310. 42343

~~(21)~~(20) A person that is a licensed real estate salesperson 42344  
or broker under Chapter 4735. of the Revised Code when soliciting 42345  
within the scope of the person's license; 42346

~~(22)~~(21)(a) Either of the following: 42347

(i) A publisher that solicits the sale of the publisher's 42348  
periodical or magazine of general, paid circulation, or a person 42349  
that solicits a sale of that nature on behalf of a publisher under 42350  
a written agreement directly between the publisher and the person. 42351

(ii) A publisher that solicits the sale of the publisher's 42352  
periodical or magazine of general, paid circulation, or a person 42353  
that solicits a sale of that nature as authorized by a publisher 42354  
under a written agreement directly with a publisher's 42355  
clearinghouse provided the person is a resident of Ohio for more 42356  
than three years and initiates all telephone solicitations from 42357  
Ohio and the person conducts the solicitation and sale in 42358  
compliance with 16 C.F.R. Part 310, as adopted by the federal 42359

trade commission. 42360

(b) As used in division (B)~~(22)~~(21) of this section, 42361  
"periodical or magazine of general, paid circulation" excludes a 42362  
periodical or magazine circulated only as part of a membership 42363  
package or given as a free gift or prize from the publisher or 42364  
person. 42365

~~(23)~~(22) A person that solicits the sale of food, as defined 42366  
in section 3715.01 of the Revised Code, or the sale of products of 42367  
horticulture, as defined in section 5739.01 of the Revised Code, 42368  
if the person does not intend the solicitation to result in, or 42369  
the solicitation actually does not result in, a sale that costs 42370  
the purchaser an amount greater than five hundred dollars. 42371

~~(24)~~(23) A funeral director licensed pursuant to Chapter 42372  
4717. of the Revised Code when soliciting within the scope of that 42373  
license, if both of the following apply: 42374

(a) The solicitation and sale are conducted in compliance 42375  
with 16 C.F.R. part 453, as adopted by the federal trade 42376  
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 42377  
the Revised Code; 42378

(b) The person provides to the purchaser of any preneed 42379  
funeral contract a notice that clearly and conspicuously sets 42380  
forth the cancellation rights specified in division (G) of section 42381  
1107.33 of the Revised Code, and retains a copy of the notice 42382  
signed by the purchaser. 42383

~~(25)~~(24) A person, or affiliate thereof, licensed to sell or 42384  
issue Ohio instruments designated as travelers checks pursuant to 42385  
sections 1315.01 to 1315.11 of the Revised Code. 42386

~~(26)~~(25) A person that solicits sales from its previous 42387  
purchasers and meets all of the following requirements: 42388

(a) The solicitation is made under the same business name 42389

that was previously used to sell goods or services to the purchaser; 42390  
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(b) The person has, for a period of not less than three years, operated a business under the same business name as that used in connection with telephone solicitation; 42392  
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(c) The person does not conduct a prize promotion or offer the sale of an investment opportunity; 42395  
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(d) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310; 42397  
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(e) Neither the person nor any of its principals has been convicted of, pleaded guilty to, or has entered a plea of no contest for a felony or a theft offense as defined in sections 2901.02 and 2913.01 of the Revised Code or similar law of another state or of the United States; 42401  
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(f) Neither the person nor any of its principals has had entered against them an injunction or a final judgment or order, including an agreed judgment or order, an assurance of voluntary compliance, or any similar instrument, in any civil or administrative action involving engaging in a pattern of corrupt practices, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property; the use of any untrue, deceptive, or misleading representation; or the use of any unfair, unlawful, deceptive, or unconscionable trade act or practice. 42406  
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~~(27)~~(26) An institution defined as a home health agency in section 3701.88 of the Revised Code, that conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310, and engages in telephone solicitation only within the scope of the institution's 42415  
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certification, accreditation, contract with the department of 42421  
aging, or status as a home health agency; and that meets one of 42422  
the following requirements: 42423

(a) The institution is certified as a provider of home health 42424  
services under Title XVIII of the Social Security Act, 49 Stat. 42425  
620, 42 U.S.C. 301, as amended; and is registered with the 42426  
department of health pursuant to division (B) of section 3701.88 42427  
of the Revised Code; 42428

(b) The institution is accredited by either the joint 42429  
commission on accreditation of health care organizations or the 42430  
community health accreditation program; 42431

(c) The institution is providing passport services under the 42432  
direction of the Ohio department of aging under section 173.40 of 42433  
the Revised Code; 42434

(d) An affiliate of an institution that meets the 42435  
requirements of division (B)~~(27)~~(26)(a), (b), or (c) of this 42436  
section when offering for sale substantially the same goods and 42437  
services as those that are offered by the institution that meets 42438  
the requirements of division (B)~~(27)~~(26)(a), (b), or (c) of this 42439  
section. 42440

~~(28)~~(27) A person licensed to provide a hospice care program 42441  
by the department of health pursuant to section 3712.04 of the 42442  
Revised Code when conducting telephone solicitations within the 42443  
scope of the person's license and according to sections 310.3, 42444  
310.4, and 310.5 of the telemarketing sales rules adopted by the 42445  
federal trade commission in 16 C.F.R. part 310. 42446

**Sec. 4723.06.** (A) The board of nursing shall: 42447

(1) Administer and enforce the provisions of this chapter, 42448  
including the taking of disciplinary action for violations of 42449  
section 4723.28 of the Revised Code, any other provisions of this 42450

chapter, or rules adopted under this chapter; 42451

(2) Develop criteria that an applicant must meet to be 42452  
eligible to sit for the examination for licensure to practice as a 42453  
registered nurse or as a licensed practical nurse; 42454

(3) Issue and renew nursing licenses and dialysis technician 42455  
certificates, as provided in this chapter; 42456

(4) Define the minimum curricula and standards for 42457  
educational programs of the schools of professional nursing and 42458  
schools of practical nursing in this state; 42459

(5) Survey, inspect, and grant full approval to prelicensure 42460  
nursing education programs that meet the standards established by 42461  
rules adopted under section 4723.07 of the Revised Code. 42462  
Prelicensure nursing education programs include, but are not 42463  
limited to, associate degree, baccalaureate degree, diploma, and 42464  
doctor of nursing programs leading to initial licensure to 42465  
practice nursing as a registered nurse and practical nurse 42466  
programs leading to initial licensure to practice nursing as a 42467  
licensed practical nurse. 42468

(6) Grant conditional approval, by a vote of a quorum of the 42469  
board, to a new prelicensure nursing education program or a 42470  
program that is being reestablished after having ceased to 42471  
operate, if the program meets and maintains the minimum standards 42472  
of the board established by rules adopted under section 4723.07 of 42473  
the Revised Code. If the board does not grant conditional 42474  
approval, it shall hold an adjudication under Chapter 119. of the 42475  
Revised Code to consider conditional approval of the program. If 42476  
the board grants conditional approval, at its first meeting after 42477  
the first class has completed the program, the board shall 42478  
determine whether to grant full approval to the program. If the 42479  
board does not grant full approval or if it appears that the 42480  
program has failed to meet and maintain standards established by 42481

rules adopted under section 4723.07 of the Revised Code, the board 42482  
shall hold an adjudication under Chapter 119. of the Revised Code 42483  
to consider the program. Based on results of the adjudication, the 42484  
board may continue or withdraw conditional approval, or grant full 42485  
approval. 42486

(7) Place on provisional approval, for a period of time 42487  
specified by the board, a program that has ceased to meet and 42488  
maintain the minimum standards of the board established by rules 42489  
adopted under section 4723.07 of the Revised Code. At the end of 42490  
the period, the board shall reconsider whether the program meets 42491  
the standards and shall grant full approval if it does. If it does 42492  
not, the board may withdraw approval, pursuant to an adjudication 42493  
under Chapter 119. of the Revised Code. 42494

(8) Approve continuing nursing education programs and courses 42495  
under standards established in rules adopted under section 4723.07 42496  
of the Revised Code; 42497

(9) Approve peer support programs, under rules adopted under 42498  
section 4723.07 of the Revised Code, for nurses and for dialysis 42499  
technicians; 42500

(10) Establish a program for monitoring chemical dependency 42501  
in accordance with section 4723.35 of the Revised Code; 42502

(11) Establish the practice intervention and improvement 42503  
program in accordance with section 4723.282 of the Revised Code; 42504

(12) Issue and renew certificates of authority to practice 42505  
nursing as a certified registered nurse anesthetist, clinical 42506  
nurse specialist, certified nurse-midwife, or certified nurse 42507  
practitioner; 42508

(13) Approve under section 4723.46 of the Revised Code 42509  
national certifying organizations for examination and 42510  
certification of certified registered nurse anesthetists, clinical 42511  
nurse specialists, certified nurse-midwives, or certified nurse 42512



practitioners;	42513
(14) Issue and renew certificates to prescribe in accordance with sections 4723.48 and 4723.485 of the Revised Code;	42514 42515
(15) Grant approval to the planned classroom and clinical study required by section 4723.483 of the Revised Code to be eligible for a certificate to prescribe;	42516 42517 42518
(16) Make an annual edition of the formulary established in rules adopted under section 4723.50 of the Revised Code available to the public either in printed form or by electronic means and, as soon as possible after any revision of the formulary becomes effective, make the revision available to the public in printed form or by electronic means;	42519 42520 42521 42522 42523 42524
(17) Provide guidance and make recommendations to the general assembly, the governor, state agencies, and the federal government with respect to the regulation of the practice of nursing and the enforcement of this chapter;	42525 42526 42527 42528
(18) Make an annual report to the governor, which shall be open for public inspection;	42529 42530
(19) Maintain and have open for public inspection the following records:	42531 42532
(a) A record of all its meetings and proceedings;	42533
(b) A file of holders of nursing licenses, registrations, and certificates granted under this chapter and dialysis technician certificates granted under this chapter. The file shall be maintained in the form prescribed by rule of the board.	42534 42535 42536 42537
(c) A list of prelicensure nursing education programs approved by the board;	42538 42539
(d) A list of approved peer support programs for nurses and dialysis technicians.	42540 42541
(B) The board may fulfill the requirement of division (A)(8)	42542

of this section by authorizing persons who meet the standards 42543  
established in rules adopted under section 4723.07 of the Revised 42544  
Code to approve continuing nursing education programs and courses. 42545  
Persons so authorized shall approve continuing nursing education 42546  
programs and courses in accordance with standards established in 42547  
rules adopted under section 4723.07 of the Revised Code. 42548

Persons seeking authorization to approve continuing nursing 42549  
education programs and courses shall apply to the board and pay 42550  
the appropriate fee established under section 4723.08 of the 42551  
Revised Code. Authorizations to approve continuing nursing 42552  
education programs and courses shall expire, and may be renewed 42553  
according to the schedule established in rules adopted under 42554  
section ~~4732.07~~ 4723.07 of the Revised Code. 42555

In addition to approving continuing nursing education 42556  
programs under division (A)(8) of this section, the board may 42557  
sponsor continuing education activities that are directly related 42558  
to the statutes and rules pertaining to the practice of nursing in 42559  
this state. 42560

Sec. 4723.063. (A) As used in this section: 42561

(1) "Health care facility" means: 42562

(a) A hospital registered under section 3701.07 of the 42563  
Revised Code; 42564

(b) A nursing home licensed under section 3721.02 of the 42565  
Revised Code, or by a political subdivision certified under 42566  
section 3721.09 of the Revised Code; 42567

(c) A county home or a county nursing home as defined in 42568  
section 5155.31 of the Revised Code that is certified under Title 42569  
XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 42570  
U.S.C. 301, amended; 42571

(d) A freestanding dialysis center; 42572

<u>(e) A freestanding inpatient rehabilitation facility;</u>	42573
<u>(f) An ambulatory surgical facility;</u>	42574
<u>(g) A freestanding cardiac catheterization facility;</u>	42575
<u>(h) A freestanding birthing center;</u>	42576
<u>(i) A freestanding or mobile diagnostic imaging center;</u>	42577
<u>(j) A freestanding radiation therapy center.</u>	42578
<u>(2) "Nurse education program" means a prelicensure nurse</u>	42579
<u>education program approved by the board of nursing under section</u>	42580
<u>4723.06 of the Revised Code or a postlicensure nurse education</u>	42581
<u>program approved by the board of regents under section 3333.04 of</u>	42582
<u>the Revised Code.</u>	42583
<u>(B) The state board of nursing shall establish and administer</u>	42584
<u>the nurse education grant program. Under the program, the board</u>	42585
<u>shall award grants to nurse education programs that have</u>	42586
<u>partnerships with other nurse education programs or health care</u>	42587
<u>facilities. Grant recipients shall use the money to fund</u>	42588
<u>partnerships to increase the nurse education program's enrollment</u>	42589
<u>capacity. Methods of increasing a program's enrollment capacity</u>	42590
<u>may include hiring faculty and preceptors, purchasing educational</u>	42591
<u>equipment and materials, and other actions acceptable to the</u>	42592
<u>board. Grant money shall not be used to construct or renovate</u>	42593
<u>buildings. Partnerships may be developed between one or more nurse</u>	42594
<u>education programs and one or more health care facilities.</u>	42595
<u>In awarding grants, the board shall give preference to</u>	42596
<u>partnerships between nurse education programs and hospitals,</u>	42597
<u>nursing homes, and county homes or county nursing homes, but may</u>	42598
<u>also award grants to fund partnerships between nurse education</u>	42599
<u>programs and other health care facilities.</u>	42600
<u>(C) The board shall adopt rules in accordance with Chapter</u>	42601
<u>119. of the Revised Code establishing the following:</u>	42602

<u>(1) Eligibility requirements for receipt of a grant;</u>	42603
<u>(2) Grant application forms and procedures;</u>	42604
<u>(3) The amounts in which grants may be made and the total amount that may be awarded to a nurse education program that has a partnership with other nurse education programs or a health care facility;</u>	42605 42606 42607 42608
<u>(4) A method whereby the board may evaluate the effectiveness of a partnership between joint recipients in increasing the nurse education program's enrollment capacity;</u>	42609 42610 42611
<u>(5) The percentage of the money in the fund that must remain in the fund at all times to maintain a fiscally responsible fund balance;</u>	42612 42613 42614
<u>(6) The percentage of available grants to be awarded to licensed practical nurse education programs, registered nurse education programs, and graduate programs;</u>	42615 42616 42617
<u>(7) Any other matters incidental to the operation of the program.</u>	42618 42619
<u>(D) From January 1, 2004, until December 31, 2013, the ten dollars of each biennial nursing license renewal fee collected under section 4723.08 of the Revised Code shall be dedicated to the nurse education grant program fund, which is hereby created in the state treasury. The board shall use money in the fund for grants awarded under division (A) of this section and for expenses of administering the grant program. The amount used for administrative expenses in any year shall not exceed ten per cent of the amount transferred to the fund in that year.</u>	42620 42621 42622 42623 42624 42625 42626 42627 42628
<u>(E) Each quarter, for the purposes of transferring funds to the nurse education grant program, the board of nursing shall certify to the director of budget and management the number of biennial licenses renewed under this chapter during the preceding</u>	42629 42630 42631 42632

<u>quarter and the amount equal to that number times ten dollars.</u>	42633
<u>(F) Notwithstanding the requirements of section 4743.05 of</u>	42634
<u>the Revised Code, from January 1, 2004, until December 31, 2013,</u>	42635
<u>at the end of each quarter, the director of budget and management</u>	42636
<u>shall transfer from the occupational licensing and regulatory fund</u>	42637
<u>to the nurse education grant program fund the amount certified</u>	42638
<u>under division (E) of this section.</u>	42639
<b>Sec. 4723.08.</b> (A) The board of nursing may impose fees not to	42640
exceed the following limits:	42641
(1) For application for licensure by examination to practice	42642
nursing as a registered nurse or as a licensed practical nurse,	42643
<del>fifty</del> <u>seventy-five</u> dollars;	42644
(2) For application for licensure by endorsement to practice	42645
nursing as a registered nurse or as a licensed practical nurse,	42646
<del>fifty</del> <u>seventy-five</u> dollars;	42647
(3) For application for a certificate of authority to	42648
practice nursing as a certified registered nurse anesthetist,	42649
clinical nurse specialist, certified nurse-midwife, or certified	42650
nurse practitioner, one hundred dollars;	42651
(4) For application for a temporary dialysis technician	42652
certificate, the amount specified in rules adopted under section	42653
4723.79 of the Revised Code;	42654
(5) For application for a full dialysis technician	42655
certificate, the amount specified in rules adopted under section	42656
4723.79 of the Revised Code;	42657
(6) For application for a certificate to prescribe, fifty	42658
dollars;	42659
(7) For verification of a nursing license, certificate of	42660
authority, or dialysis technician certificate to another	42661
jurisdiction, fifteen dollars;	42662

(8) For providing a replacement copy of a nursing license,	42663
certificate of authority, <del>or certificate to prescribe,</del> dialysis	42664
technician certificate, <del>fifteen intravenous therapy card, or</del>	42665
<del>frameable certificate, twenty-five</del> dollars;	42666
(9) For biennial renewal of a nursing license that expires on	42667
or <del>before</del> <u>after</u> August 31, 2003, <del>thirty-five</del> <u>but before January 1,</u>	42668
<u>2004, forty-five</u> dollars;	42669
(10) For biennial renewal of a nursing license that expires	42670
on or after <del>September 1, 2003, forty-five</del> <u>January 1, 2004,</u>	42671
<u>sixty-five</u> dollars;	42672
(11) For biennial renewal of a certificate of authority to	42673
practice nursing as a certified registered nurse anesthetist,	42674
clinical nurse specialist, certified nurse mid-wife, or certified	42675
nurse practitioner that expires on or before August 31, 2005, one	42676
hundred dollars;	42677
(12) For biennial renewal of a certificate of authority to	42678
practice nursing as a certified registered nurse anesthetist,	42679
clinical nurse specialist, certified nurse-midwife, or certified	42680
nurse practitioner that expires on or after September 1, 2005,	42681
eighty-five dollars;	42682
(13) For renewal of a certificate to prescribe, fifty	42683
dollars;	42684
(14) For biennial renewal of a dialysis technician	42685
certificate, the amount specified in rules adopted under section	42686
4723.79 of the Revised Code;	42687
(15) For processing a late application for renewal of a	42688
nursing license, certificate of authority, or dialysis technician	42689
certificate, fifty dollars;	42690
(16) For application for authorization to approve continuing	42691
nursing education programs and courses from an applicant	42692

accredited by a national accreditation system for nursing, five hundred dollars;	42693 42694
(17) For application for authorization to approve continuing nursing education programs and courses from an applicant not accredited by a national accreditation system for nursing, one thousand dollars;	42695 42696 42697 42698
(18) For each year for which authorization to approve continuing nursing education programs and courses is renewed, one hundred fifty dollars;	42699 42700 42701
(19) For application for approval to operate a dialysis training program, the amount specified in rules adopted under section 4723.79 of the Revised Code;	42702 42703 42704
(20) For reinstatement of a lapsed nursing license, certificate of authority, or dialysis technician certificate, one hundred dollars;	42705 42706 42707
(21) For written verification of a nursing license, certificate of authority, or dialysis technician certificate, other than verification to another jurisdiction, five dollars. The board may contract for services pertaining to this verification process and the collection of the fee, and may permit the contractor to retain a portion of the fees as compensation, before any amounts are deposited into the state treasury.	42708 42709 42710 42711 42712 42713 42714
(22) For processing a check returned to the board by a financial institution as noncollectible, twenty-five dollars;	42715 42716
<u>(23) For issuance of an intravenous therapy card for which a fee may be charged under section 4723.17 of the Revised Code, twenty-five dollars;</u>	42717 42718 42719
<u>(24) For out-of-state survey visits of nursing education programs operating in Ohio, two thousand dollars.</u>	42720 42721
(B) Each quarter, for purposes of transferring funds under	42722

section 4743.05 of the Revised Code to the nurse education 42723  
assistance fund created in section 3333.28 of the Revised Code, 42724  
the board of nursing shall certify to the director of budget and 42725  
management the number of biennial licenses renewed under this 42726  
chapter during the preceding quarter and the amount equal to that 42727  
number times five dollars. 42728

(C) The board may charge a participant in a board-sponsored 42729  
continuing education activity an amount not exceeding fifteen 42730  
dollars for each activity. 42731

**Sec. 4723.082.** ~~All~~ (A) Except as provided in section 4723.062 42732  
of the Revised Code and division (B) of this section, all receipts 42733  
of the board of nursing, from any source, shall be deposited in 42734  
the state treasury to the credit of the occupational licensing and 42735  
regulatory fund. ~~All~~ 42736

(B) All receipts from board-sponsored continuing education 42737  
activities shall be deposited in the state treasury to the credit 42738  
of the special nursing issue fund created by section 4723.062 of 42739  
the Revised Code. 42740

(C) All vouchers of the board shall be approved by the board 42741  
president or executive director, or both, as authorized by the 42742  
board. 42743

**Sec. 4723.17.** (A) The board of nursing may authorize a 42744  
licensed practical nurse to administer to an adult intravenous 42745  
therapy authorized by an individual who is authorized to practice 42746  
in this state and is acting within the course of the individual's 42747  
professional practice, if ~~all of the following are true of the~~ 42748  
licensed practical nurse+ 42749

~~(1) The nurse~~ has a current, valid license issued under this 42750  
chapter that includes authorization to administer medications and 42751  
one of the following is the case: 42752



(1) The nurse has successfully completed, within a practical nurse prelicensure education program approved by the board or by another jurisdiction's agency that regulates the practice of nursing, a course of study that prepares the nurse to safely perform the intravenous therapy procedures the board may authorize under this section. To meet this requirement, the course of study must include all of the following: 42753  
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(a) Both didactic and clinical components; 42760

(b) Curriculum requirements established in rules the board of nursing shall adopt in accordance with Chapter 119. of the Revised Code; 42761  
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(c) Standards that require the nurse to perform a successful demonstration of the intravenous procedures, including all skills needed to perform them safely. 42764  
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~~(2) The nurse has successfully completed a course in intravenous administration approved by the board that includes both of the following:~~ 42767  
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~~(a) A minimum of forty hours of training that includes all of the following:~~ 42770  
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~~(i)(a) The curriculum established by rules adopted by the board and in effect on January 1, 1999;~~ 42772  
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~~(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;~~ 42774  
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~~(iii)(c) Any other training or instruction the board considers appropriate.~~ 42778  
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~~(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~~ 42780  
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perform a successful demonstration of the intravenous procedures, 42783  
including all skills needed to perform them safely. 42784

(B) Except as provided in section 4723.171 of the Revised 42785  
Code, a licensed practical nurse may perform intravenous therapy 42786  
only if authorized by the board pursuant to division (A) of this 42787  
section and only if it is performed in accordance with this 42788  
section. 42789

A licensed practical nurse authorized by the board to perform 42790  
intravenous therapy may perform an intravenous therapy procedure 42791  
only at the direction of one of the following: 42792

(1) A licensed physician, dentist, optometrist, or podiatrist 42793  
who, except as provided in division (C)(2) of this section, is 42794  
present and readily available at the facility where the 42795  
intravenous therapy procedure is performed; 42796

(2) A registered nurse in accordance with division (C) of 42797  
this section. 42798

(C)(1) Except as provided in division (C)(2) of this section 42799  
and section 4723.171 of the Revised Code, when a licensed 42800  
practical nurse authorized by the board to perform intravenous 42801  
therapy performs an intravenous therapy procedure at the direction 42802  
of a registered nurse, the registered nurse or another registered 42803  
nurse shall be readily available at the site where the intravenous 42804  
therapy is performed, and before the licensed practical nurse 42805  
initiates the intravenous therapy, the registered nurse shall 42806  
personally perform an on-site assessment of the individual who is 42807  
to receive the intravenous therapy. 42808

(2) When a licensed practical nurse authorized by the board 42809  
to perform intravenous therapy performs an intravenous therapy 42810  
procedure in a home as defined in section 3721.10 of the Revised 42811  
Code, or in an intermediate care facility for the mentally 42812  
retarded as defined in section 5111.20 of the Revised Code, at the 42813

direction of a registered nurse or licensed physician, dentist, 42814  
optometrist, or podiatrist, a registered nurse shall be on the 42815  
premises of the home or facility or accessible by some form of 42816  
telecommunication. 42817

(D) No licensed practical nurse shall perform any of the 42818  
following intravenous therapy procedures: 42819

(1) Initiating or maintaining any of the following: 42820

(a) Blood or blood components; 42821

(b) Solutions for total parenteral nutrition; 42822

(c) Any cancer therapeutic medication including, but not 42823  
limited to, cancer chemotherapy or an anti-neoplastic agent; 42824

(d) Solutions administered through any central venous line or 42825  
arterial line or any other line that does not terminate in a 42826  
peripheral vein, except that a licensed practical nurse authorized 42827  
by the board to perform intravenous therapy may maintain the 42828  
solutions specified in division (D)(6)(a) of this section that are 42829  
being administered through a central venous line or peripherally 42830  
inserted central catheter; 42831

(e) Any investigational or experimental medication. 42832

(2) Initiating intravenous therapy in any vein, except that a 42833  
licensed practical nurse authorized by the board to perform 42834  
intravenous therapy may initiate intravenous therapy in accordance 42835  
with this section in a vein of the hand, forearm, or antecubital 42836  
fossa; 42837

(3) Discontinuing a central venous, arterial, or any other 42838  
line that does not terminate in a peripheral vein; 42839

(4) Initiating or discontinuing a peripherally inserted 42840  
central catheter; 42841

(5) Mixing, preparing, or reconstituting any medication for 42842  
intravenous therapy, except that a licensed practical nurse 42843

authorized by the board to perform intravenous therapy may prepare 42844  
or reconstitute an antibiotic additive; 42845

(6) Administering medication via the intravenous route, 42846  
including all of the following activities: 42847

(a) Adding medication to an intravenous solution or to an 42848  
existing infusion, except that a licensed practical nurse 42849  
authorized by the board to perform intravenous therapy may do 42850  
either of the following: 42851

(i) Initiate an intravenous infusion containing one or more 42852  
of the following elements: dextrose 5%; normal saline; lactated 42853  
ringers; sodium chloride .45%; sodium chloride 0.2%; sterile 42854  
water. 42855

(ii) Hang subsequent containers of the intravenous solutions 42856  
specified in division (D)(6)(a) of this section that contain 42857  
vitamins or electrolytes, if a registered nurse initiated the 42858  
infusion of that same intravenous solution. 42859

(b) Initiating or maintaining an intravenous piggyback 42860  
infusion, except that a licensed practical nurse authorized by the 42861  
board to perform intravenous therapy may initiate or maintain an 42862  
intravenous piggyback infusion containing an antibiotic additive; 42863

(c) Injecting medication via a direct intravenous route, 42864  
except that a licensed practical nurse authorized by the board to 42865  
perform intravenous therapy may inject heparin or normal saline to 42866  
flush an intermittent infusion device or heparin lock including, 42867  
but not limited to, bolus or push. 42868

(7) Aspirating any intravenous line to maintain patency; 42869

(8) Changing tubing on any line including, but not limited 42870  
to, an arterial line or a central venous line, except that a 42871  
licensed practical nurse authorized by the board to perform 42872  
intravenous therapy may change tubing on an intravenous line that 42873

terminates in a peripheral vein;	42874
(9) Programming or setting any function of a patient controlled infusion pump.	42875 42876
(E) Notwithstanding division (D) of this section, at the direction of a physician or a registered nurse, a licensed practical nurse authorized by the board to perform intravenous therapy may perform the following activities for the purpose of performing dialysis:	42877 42878 42879 42880 42881
(1) The routine administration and regulation of saline solution for the purpose of maintaining an established fluid plan;	42882 42883
(2) The administration of a heparin dose intravenously;	42884
(3) The administration of a heparin dose peripherally via a fistula needle;	42885 42886
(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.	42887 42888 42889
(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.	42890 42891 42892 42893
(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.</u> The board shall maintain a registry of the names of licensed practical nurses <del>authorized pursuant to division (A) of this section to perform</del> <u>who hold intravenous therapy cards.</u>	42894 42895 42896 42897 42898 42899 42900 42901 42902
<b>Sec. 4731.65.</b> As used in sections 4731.65 to 4731.71 of the	42903

Revised Code:	42904
(A)(1) "Clinical laboratory services" means either of the following:	42905 42906
(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;	42907 42908 42909 42910
(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.	42911 42912 42913
(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens.	42914 42915
(B) "Designated health services" means any of the following:	42916
(1) Clinical laboratory services;	42917
(2) Home health care services;	42918
(3) Outpatient prescription drugs.	42919
(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:	42920 42921
(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;	42922 42923 42924
(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.	42925 42926 42927 42928
(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal government, this state, or a political subdivision of this state, including the medicare program established under Title XVIII of	42929 42930 42931 42932

the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 42933  
as amended, health care coverage for public employees, health care 42934  
benefits administered by the bureau of workers' compensation, the 42935  
medical assistance program established under Chapter 5111. of the 42936  
Revised Code, and the disability ~~assistance~~ medical assistance 42937  
program established under Chapter 5115. of the Revised Code. 42938

(E)(1) "Group practice" means a group of two or more holders 42939  
of certificates under this chapter legally organized as a 42940  
partnership, professional corporation or association, limited 42941  
liability company, foundation, nonprofit corporation, faculty 42942  
practice plan, or similar group practice entity, including an 42943  
organization comprised of a nonprofit medical clinic that 42944  
contracts with a professional corporation or association of 42945  
physicians to provide medical services exclusively to patients of 42946  
the clinic in order to comply with section 1701.03 of the Revised 42947  
Code and including a corporation, limited liability company, 42948  
partnership, or professional association described in division (B) 42949  
of section 4731.226 of the Revised Code formed for the purpose of 42950  
providing a combination of the professional services of 42951  
optometrists who are licensed, certificated, or otherwise legally 42952  
authorized to practice optometry under Chapter 4725. of the 42953  
Revised Code, chiropractors who are licensed, certificated, or 42954  
otherwise legally authorized to practice chiropractic under 42955  
Chapter 4734. of the Revised Code, psychologists who are licensed, 42956  
certificated, or otherwise legally authorized to practice 42957  
psychology under Chapter 4732. of the Revised Code, registered or 42958  
licensed practical nurses who are licensed, certificated, or 42959  
otherwise legally authorized to practice nursing under Chapter 42960  
4723. of the Revised Code, pharmacists who are licensed, 42961  
certificated, or otherwise legally authorized to practice pharmacy 42962  
under Chapter 4729. of the Revised Code, physical therapists who 42963  
are licensed, certificated, or otherwise legally authorized to 42964  
practice physical therapy under sections 4755.40 to 4755.53 of the 42965

Revised Code, mechanotherapists who are licensed, certificated, or 42966  
otherwise legally authorized to practice mechanotherapy under 42967  
section 4731.151 of the Revised Code, and doctors of medicine and 42968  
surgery, osteopathic medicine and surgery, or podiatric medicine 42969  
and surgery who are licensed, certificated, or otherwise legally 42970  
authorized for their respective practices under this chapter, to 42971  
which all of the following apply: 42972

(a) Each physician who is a member of the group practice 42973  
provides substantially the full range of services that the 42974  
physician routinely provides, including medical care, 42975  
consultation, diagnosis, or treatment, through the joint use of 42976  
shared office space, facilities, equipment, and personnel. 42977

(b) Substantially all of the services of the members of the 42978  
group are provided through the group and are billed in the name of 42979  
the group and amounts so received are treated as receipts of the 42980  
group. 42981

(c) The overhead expenses of and the income from the practice 42982  
are distributed in accordance with methods previously determined 42983  
by members of the group. 42984

(d) The group practice meets any other requirements that the 42985  
state medical board applies in rules adopted under section 4731.70 42986  
of the Revised Code. 42987

(2) In the case of a faculty practice plan associated with a 42988  
hospital with a medical residency training program in which 42989  
physician members may provide a variety of specialty services and 42990  
provide professional services both within and outside the group, 42991  
as well as perform other tasks such as research, the criteria in 42992  
division (E)(1) of this section apply only with respect to 42993  
services rendered within the faculty practice plan. 42994

(F) "Home health care services" and "immediate family" have 42995  
the same meanings as in the rules adopted under section 4731.70 of 42996



the Revised Code.	42997
(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	42998 42999
(H) A "referral" includes both of the following:	43000
(1) A request by a holder of a certificate under this chapter for an item or service, including a request for a consultation with another physician and any test or procedure ordered by or to be performed by or under the supervision of the other physician;	43001 43002 43003 43004
(2) A request for or establishment of a plan of care by a certificate holder that includes the provision of designated health services.	43005 43006 43007
(I) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.	43008 43009
<b>Sec. 4731.71.</b> The auditor of state may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code within governmental health care programs administered by the state. The auditor of state shall report any violation of either section to the state medical board and shall certify to the attorney general in accordance with section 131.02 of the Revised Code the amount of any refund owed to a state-administered governmental health care program under section 4731.69 of the Revised Code as a result of a violation. If a refund is owed to the medical assistance program established under Chapter 5111. of the Revised Code or the disability <del>assistance</del> medical assistance program established under Chapter 5115. of the Revised Code, the auditor of state also shall report the amount to the department of commerce.	43010 43011 43012 43013 43014 43015 43016 43017 43018 43019 43020 43021 43022 43023
The state medical board also may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code.	43024 43025 43026

**Sec. 4734.15.** (A) The license provided for in this chapter 43027  
shall entitle the holder thereof to practice chiropractic in this 43028  
state. All of the following apply to the practice of chiropractic 43029  
in this state: 43030

(1) A chiropractor is authorized to examine, diagnose, and 43031  
assume responsibility for the care of patients, any or all of 43032  
which is included in the practice of chiropractic. 43033

(2) The practice of chiropractic does not permit the 43034  
chiropractor to treat infectious, contagious, or venereal disease, 43035  
to perform surgery or acupuncture, or to prescribe or administer 43036  
drugs for treatment. 43037

(3) A chiropractor may use roentgen rays only for diagnostic 43038  
purposes. 43039

(4) The practice of chiropractic does not include the 43040  
performance of abortions. 43041

(B) An individual holding a valid, current license to 43042  
practice chiropractic is entitled to use the title "doctor," 43043  
"doctor of chiropractic," "chiropractic physician," or 43044  
"chiropractic" and is a "physician" for the purposes of Chapter 43045  
4123. of the Revised Code ~~and the medicaid program operated~~ 43046  
~~pursuant to Chapter 5111. of the Revised Code.~~ 43047

**Sec. 4736.12.** (A) The state board of sanitarian registration 43048  
shall charge the following fees: 43049

(1) To apply as a sanitarian-in-training, ~~fifty-seven~~ 43050  
seventy-five dollars; 43051

(2) For sanitarians-in-training to apply for registration as 43052  
sanitarians, ~~fifty-seven~~ seventy-five dollars. The applicant shall 43053  
pay this fee only once regardless of the number of times the 43054  
applicant takes an examination required under section 4736.08 of 43055

the Revised Code. 43056

(3) For persons other than sanitarians-in-training to apply 43057  
for registration as sanitarians, including persons meeting the 43058  
requirements of section 4736.16 of the Revised Code, one hundred 43059  
~~fourteen~~ fifty dollars. The applicant shall pay this fee only once 43060  
regardless of the number of times the applicant takes an 43061  
examination required under section 4736.08 of the Revised Code. 43062

(4) The renewal fee for registered sanitarians shall be ~~fixed~~ 43063  
~~by the board and shall not exceed sixty-one~~ sixty-nine dollars. 43064

(5) The renewal fee for sanitarians-in-training shall be 43065  
~~fixed by the board and shall not exceed sixty-one~~ sixty-nine 43066  
dollars. 43067

(6) For late application for renewal, twenty-five dollars. 43068

The board of sanitarian registration, with the approval of 43069  
the controlling board, may establish fees in excess of the amounts 43070  
provided in this section, provided that such fees do not exceed 43071  
the amounts permitted by this section by more than fifty per cent. 43072

(B) The board of sanitarian registration shall charge 43073  
separate fees for examinations as required by section 4736.08 of 43074  
the Revised Code, provided that the fees are not in excess of the 43075  
actual cost to the board of conducting the examinations. 43076

(C) The board of sanitarian registration may adopt rules 43077  
establishing fees for all of the following: 43078

(1) Application for the registration of a training agency 43079  
approved under rules adopted by the board pursuant to section 43080  
4736.11 of the Revised Code and for the annual registration 43081  
renewal of an approved training agency. 43082

(2) Application for the review of continuing education hours 43083  
submitted for the board's approval by approved training agencies 43084  
or by registered sanitarians or sanitarians-in-training. 43085

**Sec. 4743.05.** Except as otherwise provided in sections 43086  
4701.20, ~~4723.062, 4723.082,~~ and 4729.65 of the Revised Code, all 43087  
money collected under Chapters 3773., 4701., 4703., 4709., 4713., 43088  
4715., 4717., 4723., 4725., 4729., 4732., 4733., 4734., 4736., 43089  
4741., 4753., 4755., 4757., 4758., 4759., ~~and 4761., 4771., and~~ 43090  
~~4779.~~ of the Revised Code, ~~and until December 31, 2004, money~~ 43091  
~~collected under Chapter 4779. of the Revised Code,~~ shall be paid 43092  
into the state treasury to the credit of the occupational 43093  
licensing and regulatory fund, which is hereby created for use in 43094  
administering such chapters. 43095

At the end of each quarter, the director of budget and 43096  
management shall transfer from the occupational licensing and 43097  
regulatory fund to the nurse education assistance fund created in 43098  
section 3333.28 of the Revised Code the amount certified to the 43099  
director under division (B) of section 4723.08 of the Revised 43100  
Code. 43101

At the end of each quarter, the director shall transfer from 43102  
the occupational licensing and regulatory fund to the certified 43103  
public accountant education assistance fund created in section 43104  
4701.26 of the Revised Code the amount certified to the director 43105  
under division (H)(2) of section 4701.10 of the Revised Code. 43106

**Sec. 4747.05.** (A) The hearing aid dealers and fitters 43107  
licensing board shall issue to each applicant, within sixty days 43108  
of receipt of a properly completed application and payment of two 43109  
hundred ~~fifty~~ sixty-two dollars, a hearing aid dealer's or 43110  
fitter's license if the applicant, if an individual: 43111

(1) Is at least eighteen years of age; 43112

(2) Is a person of good moral character; 43113

(3) Is free of contagious or infectious disease; 43114

(4) Has successfully passed a qualifying examination 43115  
specified and administered by the board. 43116

(B) If the applicant is a firm, partnership, association, or 43117  
corporation, the application, in addition to such information as 43118  
the board requires, shall be accompanied by an application for a 43119  
license for each person, whether owner or employee, of the firm, 43120  
partnership, association, or corporation, who engages in dealing 43121  
in or fitting of hearing aids, or shall contain a statement that 43122  
such applications are submitted separately. No firm, partnership, 43123  
association, or corporation licensed pursuant to this chapter 43124  
shall permit any unlicensed person to sell or fit hearing aids. 43125

(C) Each license issued expires on the thirtieth day of 43126  
January of the year following that in which it was issued. 43127

**Sec. 4747.06.** (A) Each person engaged in the practice of 43128  
dealing in or fitting of hearing aids who holds a valid hearing 43129  
aid dealer's or fitter's license shall apply annually to the 43130  
hearing aid dealers and fitters licensing board for renewal of 43131  
such license under the standard renewal procedure specified in 43132  
Chapter 4745. of the Revised Code. The board shall issue to each 43133  
applicant, on proof of completion of the continuing education 43134  
required by division (B) of this section and payment of one 43135  
hundred ~~fifty~~ fifty-seven dollars on or before the first day of 43136  
February, one hundred ~~seventy-five~~ eighty-three dollars on or 43137  
before the first day of March, or two hundred ten dollars 43138  
thereafter, a renewed hearing aid dealer's or fitter's license. No 43139  
person who applies for renewal of a hearing aid dealer's or 43140  
fitter's license that has expired shall be required to take any 43141  
examination as a condition of renewal provided application for 43142  
renewal is made within two years of the date such license expired. 43143

(B) Each person engaged in the practice of dealing in or 43144  
fitting of hearing aids who holds a valid hearing aid dealer's or 43145

fitter's license shall complete each year not less than ten hours 43146  
of continuing professional education approved by the board. On a 43147  
form provided by the board, the person shall certify to the board, 43148  
at the time of license renewal pursuant to division (A) of this 43149  
section, that in the preceding year the person has completed 43150  
continuing education in compliance with this division and shall 43151  
submit any additional information required by rule of the board 43152  
regarding the continuing education. The board shall adopt rules in 43153  
accordance with Chapter 119. of the Revised Code establishing the 43154  
standards continuing education programs must meet to obtain board 43155  
approval and continuing education reporting requirements. 43156

Continuing education may be applied to meet the requirement 43157  
of this division if it is provided or certified by any of the 43158  
following: 43159

(1) The national institute of hearing instruments studies 43160  
committee of the international hearing society; 43161

(2) The American speech-language hearing association; 43162

(3) The American academy of audiology. 43163

The board may excuse persons licensed under this chapter, as 43164  
a group or as individuals, from all or any part of the 43165  
requirements of this division because of an unusual circumstance, 43166  
emergency, or special hardship. 43167

**Sec. 4747.07.** Each person who holds a hearing aid dealer's or 43168  
fitter's license and engages in the practice of dealing in and 43169  
fitting of hearing aids shall display such license in a 43170  
conspicuous place in the person's office or place of business at 43171  
all times. Each person who maintains more than one office or place 43172  
of business shall post a duplicate copy of the license at each 43173  
location. The hearing aid dealers and fitters licensing board 43174  
shall issue duplicate copies of a license upon receipt of a 43175

properly completed application and payment of ~~fifteen~~ sixteen 43176  
dollars for each copy requested. 43177

**Sec. 4747.10.** Each person currently engaged in training to 43178  
become a licensed hearing aid dealer or fitter shall apply to the 43179  
hearing aid dealers and fitters licensing board for a hearing aid 43180  
dealer's and fitter's trainee permit. The board shall issue to 43181  
each applicant within thirty days of receipt of a properly 43182  
completed application and payment of one hundred fifty dollars, a 43183  
trainee permit if such applicant is: 43184

(A) At least eighteen years of age; 43185

(B) The holder of a diploma from an accredited high school, 43186  
or possesses an equivalent education; 43187

(C) A person of good moral character; 43188

(D) Free of contagious or infectious disease. 43189

Each trainee permit issued by the board expires one year from 43190  
the date it was first issued, and may be renewed once if the 43191  
trainee has not successfully completed the qualifying requirements 43192  
for licensing as a hearing aid dealer or fitter before the 43193  
expiration date of such permit. The board shall issue a renewed 43194  
permit to each applicant upon receipt of a properly completed 43195  
application and payment of one hundred five dollars. No person 43196  
holding a trainee permit shall engage in the practice of dealing 43197  
in or fitting of hearing aids except while under supervision by a 43198  
licensed hearing aid dealer or fitter. 43199

**Sec. 4751.06.** (A) An applicant for licensure as a nursing 43200  
home administrator who has successfully completed the requirements 43201  
of section 4751.05 of the Revised Code, passed the examination 43202  
administered by the board of examiners of nursing home 43203  
administrators or a government or private entity under contract 43204  
with the board, and paid to the board an original license fee of 43205

two hundred ~~ten~~ fifty dollars shall be issued a license on a form 43206  
provided by the board. Such license shall certify that the 43207  
applicant has met the licensure requirements of Chapter 4751. of 43208  
the Revised Code and is entitled to practice as a licensed nursing 43209  
home administrator. 43210

(B) A temporary license for a period not to exceed one 43211  
hundred eighty days may be issued to an individual temporarily 43212  
filling the position of a nursing home administrator vacated by 43213  
reason of death, illness, or other unexpected cause, pursuant to 43214  
regulations adopted by the board. 43215

(C) The fee for a temporary license is one hundred dollars. 43216  
Said fee must accompany the application for the temporary license. 43217

(D) Any license or temporary license issued by the board 43218  
pursuant to this section shall be under the hand of the 43219  
chairperson and the secretary of the board. 43220

(E) A duplicate of the original certificate of registration 43221  
or license may be secured to replace one that has been lost or 43222  
destroyed by submitting to the board a notarized statement 43223  
explaining the conditions of the loss, mutilation, or destruction 43224  
of the certificate or license and by paying a fee of twenty-five 43225  
dollars. 43226

(F) A duplicate certificate of registration and license may 43227  
be issued in the event of a legal change of name by submitting to 43228  
the board a certified copy of the court order or marriage license 43229  
establishing the change of name, by returning at the same time the 43230  
original license and certificate of registration, and by paying a 43231  
fee of twenty-five dollars. 43232

**Sec. 4751.07.** (A) Every individual who holds a valid license 43233  
as a nursing home administrator issued under division (A) of 43234  
section 4751.06 of the Revised Code, shall immediately upon 43235



issuance thereof be registered with the board of examiners of 43236  
nursing home administrators and be issued a certificate of 43237  
registration. Such individual shall annually apply to the board 43238  
for a new certificate of registration on forms provided for such 43239  
purpose prior to the expiration of the certificate of registration 43240  
and shall at the same time submit satisfactory evidence to the 43241  
board of having attended such continuing education programs or 43242  
courses of study as may be prescribed in rules adopted by the 43243  
board. 43244

(B) Upon making an application for a new certificate of 43245  
registration such individual shall pay the annual registration fee 43246  
of two hundred ~~ten~~ fifty dollars. 43247

(C) Upon receipt of such application for registration and the 43248  
registration fee required by divisions (A) and (B) of this 43249  
section, the board shall issue a certificate of registration to 43250  
such nursing home administrator. 43251

(D) The license of a nursing home administrator who fails to 43252  
comply with this section shall automatically lapse. 43253

(E) A nursing home administrator who has been licensed and 43254  
registered in this state who determines to temporarily abandon the 43255  
practice of nursing home administration shall notify the board in 43256  
writing immediately; provided, that such individual may thereafter 43257  
register to resume the practice of nursing home administration 43258  
within the state upon complying with the requirements of this 43259  
section regarding annual registration. 43260

(F) Only an individual who has qualified as a licensed and 43261  
registered nursing home administrator under Chapter 4751. of the 43262  
Revised Code and the rules adopted thereunder, and who holds a 43263  
valid current registration certificate pursuant to this section, 43264  
may use the title "nursing home administrator," or the 43265  
abbreviation "N.H.A." after the individual's name. No other person 43266

shall use such title or such abbreviation or any other words, 43267  
letters, sign, card, or device tending to indicate or to imply 43268  
that the person is a licensed and registered nursing home 43269  
administrator. 43270

(G) Every person holding a valid license entitling the person 43271  
to practice nursing home administration in this state shall 43272  
display said license in the nursing home which is the person's 43273  
principal place of employment, and while engaged in the practice 43274  
of nursing home administration shall have at hand the current 43275  
registration certificate. 43276

(H) Every person holding a valid temporary license shall have 43277  
such license at hand while engaged in the practice of nursing home 43278  
administration. 43279

**Sec. 4755.03.** There is hereby created in the department of 43280  
health the Ohio occupational therapy, physical therapy, and 43281  
athletic trainers board ~~consisting~~. The board shall consist of 43282  
sixteen residents of this state, who shall be appointed by the 43283  
governor with the advice and consent of the senate. The board 43284  
shall be composed of a physical therapy section, an occupational 43285  
therapy section, and an athletic trainers section. 43286

Five members of the board shall be physical therapists who 43287  
are licensed to practice physical therapy and who have been 43288  
engaged in or actively associated with the practice of physical 43289  
therapy in this state for at least five years immediately 43290  
preceding appointment. Such members of the board shall sit on the 43291  
physical therapy section. The physical therapy section also shall 43292  
consist of four additional members, appointed by the governor with 43293  
the advice and consent of the senate, who satisfy the same 43294  
qualifications as the members of the board sitting on the physical 43295  
therapy section, but who are not members of the board. Such 43296  
additional members of the physical therapy section are vested with 43297

only such powers and shall perform only such duties as relate to 43298  
the affairs of that section, shall serve for the same terms as do 43299  
members of the board sitting on the physical therapy section, and 43300  
shall subscribe to and file with the secretary of state the 43301  
constitutional oath of office. 43302

Five members of the board shall be occupational therapists 43303  
who have been engaged in or actively associated with the practice 43304  
of occupational therapy in this state for at least five years 43305  
immediately preceding appointment. Such members of the board shall 43306  
sit on the occupational therapy section. 43307

Four members of the board shall be athletic trainers who have 43308  
been engaged in the practice of athletic training in Ohio for at 43309  
least five years immediately preceding appointment. One member of 43310  
the board shall be a physician licensed to practice medicine and 43311  
surgery in this state. Such members of the board shall sit on the 43312  
athletic trainers section. 43313

One member of the board shall represent the public and shall 43314  
be at least sixty years of age. This member shall sit on the 43315  
board. 43316

Terms of office are for three years, each term commencing on 43317  
the twenty-eighth day of August and ending on the twenty-seventh 43318  
day of August. Each member shall serve subsequent to the 43319  
expiration of ~~his~~ the member's term until ~~his~~ the member's 43320  
successor is appointed and qualifies, or until a period of sixty 43321  
days has elapsed, whichever occurs first. Each member, before 43322  
entering upon ~~the~~ official duties ~~of his office~~, shall subscribe 43323  
to and file with the secretary of state the constitutional oath of 43324  
office. All vacancies shall be filled in the manner prescribed for 43325  
the regular appointments to the board and are limited to the 43326  
unexpired terms. 43327

Annually, upon the qualification of the member or members 43328

appointed in that year, the board shall organize by selecting from 43329  
its members a president and secretary. Each section of the board 43330  
shall organize by selecting from its members a ~~chairman~~ 43331  
chairperson and secretary. 43332

The majority of the members of the board constitutes a quorum 43333  
to transact and vote on the business of the board. A majority of 43334  
the members of each section constitutes a quorum to transact and 43335  
vote on the affairs of that section. 43336

Each member of the board and each additional member of the 43337  
physical therapy section shall receive an amount fixed pursuant to 43338  
division (J) of section 124.15 of the Revised Code for each day 43339  
employed in the discharge of ~~his~~ official duties. In addition, 43340  
each member of the board and each additional member of the 43341  
physical therapy section shall receive ~~his~~ the member's actual and 43342  
necessary expenses incurred in the performance of ~~his~~ official 43343  
duties. 43344

The board of trustees of the Ohio occupational therapy 43345  
association, inc., may recommend, after any term expires or 43346  
vacancy occurs in an occupational therapy position, at least three 43347  
persons to fill each such position or vacancy on the board, and 43348  
the governor may make ~~his~~ the appointment from the persons so 43349  
recommended. The executive board of the Ohio chapter, inc., of the 43350  
American physical therapy association may recommend, after any 43351  
term expires or vacancy occurs in a physical therapy position, at 43352  
least three persons to fill each such vacancy on the board, and 43353  
the governor may make ~~his~~ appointments from the persons so 43354  
recommended. The Ohio athletic trainers association shall 43355  
recommend to the governor at least three persons for each of the 43356  
initial appointments to an athletic trainer's position. The Ohio 43357  
athletic trainers association shall also recommend to the governor 43358  
at least three persons when any term expires or any vacancy occurs 43359  
in such a position. The governor may select one of the 43360

association's recommendations in making such an appointment. 43361

The board shall meet as a whole to determine all 43362  
administrative, personnel, and budgetary matters. The executive 43363  
director of the board appointed by the board shall not be a 43364  
physical therapist, an occupational therapist, or an athletic 43365  
trainer who has been licensed to practice physical therapy, 43366  
occupational therapy, or as an athletic trainer in this state 43367  
within three years immediately preceding appointment. The 43368  
executive director shall serve at the pleasure of the board. 43369

The occupational therapy section of the board shall have the 43370  
full authority to act on behalf of the board on all matters 43371  
concerning the practice of occupational therapy and, in 43372  
particular, the examination, licensure, and suspension or 43373  
revocation of licensure of applicants, occupational therapists, 43374  
and occupational therapy assistants. The physical therapy section 43375  
of the board shall have the full authority to act on behalf of the 43376  
board on all matters concerning the practice of physical therapy 43377  
and, in particular, the examination, licensure, and suspension or 43378  
revocation of licensure of applicants, physical therapists, and 43379  
physical therapist assistants. The athletic trainers section of 43380  
the board shall have the full authority to act on behalf of the 43381  
board on all matters concerning the practice of athletic training 43382  
and, in particular, the examination, licensure, and suspension or 43383  
revocation of licensure of applicants and athletic trainers. All 43384  
actions taken by any section of the board under this paragraph 43385  
shall be in accordance with Chapter 119. of the Revised Code. 43386

Sec. 4755.031. Notwithstanding any other section of this 43387  
chapter, any rules required to be adopted by any section of the 43388  
Ohio occupational therapy, physical therapy, and athletic trainers 43389  
board shall be adopted on behalf of that section of the board by 43390  
the director of health. Any rules adopted prior to the effective 43391

date of this section shall continue in force as rules of the 43392  
department of health until amended or rescinded by the director. 43393

**Sec. 4759.08.** (A) The Ohio board of dietetics shall charge 43394  
and collect fees as described in this section for issuing the 43395  
following: 43396

(1) An application for an initial dietitian license, or an 43397  
application for ~~reinstatement~~ reactivation of an inactive license, 43398  
one hundred ~~ten~~ twenty-five dollars, and for reinstatement of a 43399  
lapsed, revoked, or suspended license, one hundred ~~sixty-five~~ 43400  
eighty dollars; 43401

(2) License renewal, ~~eighty~~ ninety-five dollars; 43402

(3) A limited permit, and renewal of the permit, ~~fifty-five~~ 43403  
sixty-five dollars; 43404

(4) A duplicate license or permit, twenty dollars; 43405

(5) For processing a late application for renewal of any 43406  
license or permit, an additional fee equal to fifty per cent of 43407  
the fee for the renewal. 43408

(B) The board shall not require a licensed dietitian holding 43409  
an inactive license to pay the renewal fee. 43410

(C) Subject to the approval of the controlling board, the 43411  
Ohio board of dietetics may establish fees in excess of the 43412  
amounts provided in division (A) of this section, provided that 43413  
the fees do not exceed the amounts by greater than fifty per cent. 43414

(D) The board may adopt rules pursuant to Chapter 119. of the 43415  
Revised Code to waive all or part of the fee for an initial 43416  
license if the license is issued within one hundred days of the 43417  
date of expiration of the license. 43418

(E) All receipts of the board shall be deposited in the state 43419  
treasury to the credit of the occupational licensing and 43420

regulatory fund. All vouchers of the board shall be approved by 43421  
the chairperson or secretary of the board, or both, as authorized 43422  
by the board. 43423

**Sec. 4771.22.** The Ohio athletic commission shall deposit all 43424  
money it receives under this chapter to the credit of the ~~athlete~~ 43425  
~~agents registration~~ occupational licensing and regulatory fund, 43426  
~~which is hereby created in the state treasury. The commission~~ 43427  
~~shall use the fund to administer and enforce this chapter under~~ 43428  
section 4743.05 of the Revised Code. 43429

**Sec. 4903.24.** If the public utilities commission finds after 43430  
investigating that any rate, joint rate, fare, charge, toll, 43431  
rental, schedule, or classification of service is unjust, 43432  
unreasonable, insufficient, unjustly discriminatory, unjustly 43433  
preferential, or in violation of law, or that any service is 43434  
inadequate or cannot be obtained, the public utility found to be 43435  
at fault shall pay the expenses incurred by the commission upon 43436  
such investigation. 43437

All fees, expenses, and costs of, or in connection with, any 43438  
hearing or investigation may be imposed by the commission upon any 43439  
party to the record or may be divided among any parties to the 43440  
record in such proportion as the commission determines. 43441

All fees, expenses, and costs authorized and collected under 43442  
this section shall be deposited to the credit of the special 43443  
assessment fund, which is hereby created in the state treasury. 43444  
Money in the fund shall be used by the commission for the purpose 43445  
of covering the costs of any investigations or hearings it orders 43446  
regarding any public utility. 43447

**Sec. 4905.79.** Any telephone company, as defined in ~~division~~ 43448  
~~(D)(2)~~ of section 5727.01 of the Revised Code, that is required to 43449  
provide any telephone service program implemented after March 27, 43450

1991, to aid the communicatively impaired in accessing the 43451  
telephone network shall be allowed a tax credit for the costs of 43452  
any such program under section ~~5727.44~~ 5733.56 of the Revised 43453  
Code. Relative to any such program, the public utilities 43454  
commission, in accordance with its rules, shall allow interested 43455  
parties to intervene and participate in any proceeding or part of 43456  
a proceeding brought before the commission pursuant to this 43457  
section. The commission shall adopt rules it considers necessary 43458  
to carry out this section. 43459

**Sec. 4905.91.** For the purpose of protecting the public safety 43460  
with respect to intrastate pipe-line transportation by any 43461  
operator: 43462

(A) The public utilities commission shall: 43463

(1) Adopt, and may amend or rescind, rules to carry out 43464  
sections 4905.90 to 4905.96 of the Revised Code, including rules 43465  
concerning pipe-line safety, drug testing, and enforcement 43466  
procedures. The commission shall adopt these rules only after 43467  
notice and opportunity for public comment. The rules adopted under 43468  
this division and any orders issued under sections 4905.90 to 43469  
4905.96 of the Revised Code constitute the pipe-line safety code. 43470  
The commission shall administer and enforce that code. 43471

(2) Make certifications and reports to the United States 43472  
department of transportation as required under the Natural Gas 43473  
Pipeline Safety Act. 43474

(B) The commission may: 43475

(1) Investigate any service, act, practice, policy, or 43476  
omission by any operator to determine its compliance with sections 43477  
4905.90 to 4905.96 of the Revised Code and the pipe-line safety 43478  
code; 43479

(2) Investigate any intrastate pipe-line transportation 43480



facility to determine if it is hazardous to life or property, as 43481  
provided in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1679b(b)(2) and 43482  
(3); 43483

(3) Investigate the existence or report of any safety-related 43484  
condition that involves any intrastate pipe-line transportation 43485  
facility; 43486

(4) Enter into and perform contracts or agreements with the 43487  
United States department of transportation to inspect interstate 43488  
transmission facilities pursuant to the Natural Gas Pipeline 43489  
Safety Act; 43490

(5) Accept grants-in-aid, ~~funds~~ cash, and reimbursements 43491  
provided for or made available to this state by the federal 43492  
government to carry out the Natural Gas Pipeline Safety Act or to 43493  
enforce sections 4905.90 to 4905.96 of the Revised Code and the 43494  
pipe-line safety code. All such grants-in-aid, cash, and 43495  
reimbursements shall be deposited to the credit of the gas 43496  
pipe-line safety fund, which is hereby created in the state 43497  
treasury, to be used by the commission for the purpose of carrying 43498  
out this section. 43499

(C) The commission's regulation of gathering lines shall 43500  
conform to the regulation of gathering lines in 49 C.F.R. ~~parts~~ 43501  
192 and 199, as amended, and the commission's annual certification 43502  
agreements with the United States department of transportation, 43503  
except that rule 4901:1-16-03, paragraph (D) of rule 4901:1-16-05, 43504  
and rule 4901:1-16-06 of the Ohio Administrative Code shall also 43505  
apply to gathering lines. The procedural rules under chapter 43506  
4901:1-16 of the Ohio Administrative Code shall also apply to 43507  
operators of gathering lines. 43508

**Sec. 4919.79.** (A) The public utilities commission may adopt 43509  
safety rules applicable to the highway transportation and offering 43510  
for transportation of hazardous materials in interstate commerce, 43511

which highway transportation takes place into or through this 43512  
state. 43513

(B) The commission may adopt safety rules applicable to the 43514  
highway transportation of persons or property in interstate 43515  
commerce, which transportation takes place into or through this 43516  
state. 43517

(C) Rules adopted under divisions (A) and (B) of this section 43518  
shall be consistent with, and equivalent in scope, coverage, and 43519  
content to, the "Hazardous Materials Transportation Act," 88 Stat. 43520  
2156 (1975), 49 U.S.C.A. 1801, as amended, and regulations adopted 43521  
under it, and the "Motor Carrier Safety Act of 1984," 98 Stat. 43522  
2832, 49 U.S.C.A. 2501, and regulations adopted under it, 43523  
respectively. No person shall violate a rule adopted under 43524  
division (A) or (B) of this section or any order of the commission 43525  
issued to secure compliance with any such rule. 43526

(D) The commission shall cooperate with, and permit the use 43527  
of, the services, records, and facilities of the commission as 43528  
fully as practicable by appropriate officers of the interstate 43529  
commerce commission, the United States department of 43530  
transportation, and other federal agencies or commissions and 43531  
appropriate commissions of other states in the enforcement and 43532  
administration of state and federal laws relating to highway 43533  
transportation by motor vehicles. The commission may enter into 43534  
cooperative agreements with the interstate commerce commission, 43535  
the United States department of transportation, and any other 43536  
federal agency or commission to enforce the economic and safety 43537  
laws and rules of this state and of the United States concerning 43538  
highway transportation by motor vehicles. All grants-in-aid, cash, 43539  
and reimbursements received by the commission pursuant to those 43540  
cooperative agreements shall be deposited to the credit of the 43541  
motor carrier safety fund, which is hereby created in the state 43542  
treasury, to be used by the commission for the purpose of carrying 43543

out this section. 43544

(E) To achieve the purposes of this section, the commission 43545  
may, through its inspectors or other authorized employees, inspect 43546  
any vehicles of carriers of persons or property in interstate 43547  
commerce subject to the safety rules prescribed by this section 43548  
and may enter upon the premises and vehicles of such carriers to 43549  
examine any of the carriers' records or documents that relate to 43550  
the safety of operation of such carriers. In order to assist the 43551  
commission in the performance of its duties under this section, 43552  
authorized employees of the commercial motor vehicle safety 43553  
enforcement unit, division of state highway patrol, of the 43554  
department of public safety may enter in or upon, for purposes of 43555  
inspection, any vehicle of any such carrier. 43556

In order to inspect motor vehicles owned or operated by 43557  
private motor carriers of persons, authorized employees of the 43558  
commercial motor vehicle safety enforcement unit, division of 43559  
state highway patrol, of the department of public safety may enter 43560  
in or upon the premises of any private carrier of persons in 43561  
interstate commerce, subject to the safety rules prescribed by 43562  
this section. 43563

**Sec. 4928.62.** (A) Beginning on the starting date of 43564  
competitive retail electric service, there is hereby created the 43565  
energy efficiency revolving loan program, which shall be 43566  
administered by the director of development. Under the program, 43567  
the director may authorize the use of moneys in the energy 43568  
efficiency revolving loan fund for financial assistance for 43569  
projects in this state. To the extent feasible given approved 43570  
applications for assistance, the assistance shall be distributed 43571  
among the certified territories of electric distribution utilities 43572  
and participating electric cooperatives, and among the service 43573  
areas of participating municipal electric utilities, in amounts 43574

proportionate to the remittances of each utility and cooperative 43575  
under divisions (B)(1) and (3) of section 4928.61 of the Revised 43576  
Code. The assistance ~~shall~~ may be ~~made or~~ provided through 43577  
~~approved lending institutions~~ by the director of development in 43578  
the form of direct loans, or grants, or through lending 43579  
institutions in the form of loan participation agreements at below 43580  
market rates, ~~loan guarantees for such loans, and or~~ linked 43581  
deposits ~~for such loans~~. The total of all grants provided in any 43582  
one fiscal year shall not exceed ten per cent of the revenues paid 43583  
into the energy efficiency revolving loan fund during the previous 43584  
fiscal year. 43585

The director shall not authorize financial assistance under 43586  
the program unless the director first determines all of the 43587  
following: 43588

(1) The project will include an investment in products, 43589  
technologies, or services, including energy efficiency or 43590  
renewable energy for low-income housing, for residential, ~~small~~ 43591  
commercial and ~~small~~ industrial business, local government, 43592  
educational institution, nonprofit entity, or agricultural 43593  
customers of an electric distribution utility in this state or a 43594  
participating municipal electric utility or electric cooperative 43595  
in this state. 43596

(2) The project will improve energy efficiency, provide for 43597  
the use of renewable energy, or monitor energy usage in a 43598  
cost-efficient manner by using both the most appropriate national, 43599  
federal, or other standards for products as determined by the 43600  
director, and the best practices for use of technology, products, 43601  
or services in the context of the total facility or building. 43602

(3) The project will benefit the economic and environmental 43603  
welfare of the citizens of this state. 43604

(4) The receipt of financial assistance is a major factor in 43605

the applicant's decision to proceed with or invest in the project. 43606

(B) In carrying out sections 4928.61 to 4928.63 of the 43607  
Revised Code, the director may do all of the following for the 43608  
purpose of the energy efficiency revolving loan program: 43609

(1) Acquire in the name of the director any property of any 43610  
kind or character in accordance with this section, by purchase, 43611  
purchase at foreclosure, or exchange, on such terms and in such 43612  
manner as the director considers proper; 43613

(2) Make and enter into all contracts and agreements 43614  
necessary or incidental to the performance of the director's 43615  
duties and the exercise of the director's powers under those 43616  
sections; 43617

(3) Employ or enter into contracts with financial 43618  
consultants, marketing consultants, consulting engineers, 43619  
architects, managers, construction experts, attorneys, technical 43620  
monitors, energy evaluators, or other employees or agents as the 43621  
director considers necessary, and ~~shall~~ fix their compensation; 43622

(4) Adopt rules prescribing the application procedures for 43623  
financial assistance under the program; the terms and conditions 43624  
of any loans, loan guarantees, grants, linked deposits, and 43625  
contracts; criteria pertaining to the eligibility of participating 43626  
lending institutions; and any other matters necessary for the 43627  
implementation of the program; 43628

(5) Do all things necessary and appropriate for the operation 43629  
of the program. 43630

(C) Financial statements, financial data, and trade secrets 43631  
submitted to or received by the director from an applicant or 43632  
recipient of financial assistance under sections 4928.61 to 43633  
4928.63 of the Revised Code, or any information taken from those 43634  
statements, data, or trade secrets for any purpose, are not public 43635  
records for the purpose of section 149.43 of the Revised Code. 43636

**Sec. 4928.63.** The director of development and the public 43637  
benefits advisory board have the powers and duties provided in 43638  
sections 4928.61 and 4928.62 of the Revised Code, in order to 43639  
promote the welfare of the people of this state, to stabilize the 43640  
economy, to assist in the improvement and development within this 43641  
state of not-for-profit entity, industrial, commercial, 43642  
distribution, residential, and research buildings and activities 43643  
required for the people of this state, to improve the economic 43644  
welfare of the people of this state, and also to assist in the 43645  
improvement of air, water, or thermal pollution control facilities 43646  
and solid waste disposal facilities. It is hereby determined that 43647  
the accomplishment of those purposes is essential so that the 43648  
people of this state may maintain their present high standards in 43649  
comparison with the people of other states and so that 43650  
opportunities for improving the economic welfare of the people of 43651  
this state, for improving the housing of residents of this state, 43652  
and for favorable markets for the products of this state's natural 43653  
resources, agriculture, and manufacturing shall be improved; and 43654  
that it is necessary for this state to establish the program 43655  
authorized pursuant to sections 4928.61 and 4928.62 of the Revised 43656  
Code, ~~to establish the energy efficiency revolving loan program~~ 43657  
~~and program fund and the energy efficiency revolving loan program~~ 43658  
~~advisory board, and to vest the director and the board with the~~ 43659  
~~powers and duties provided in sections 4928.61 and 4928.62 of the~~ 43660  
~~Revised Code.~~ 43661

**Sec. 4931.45.** (A) A final plan may be amended to expand the 43662  
territory included in the countywide 9-1-1 system, to upgrade any 43663  
part or all of a system from basic 9-1-1 to enhanced 9-1-1 43664  
service, to adjust the territory served by a public safety 43665  
answering point, to represcribe the funding of public safety 43666  
answering points as between the alternatives set forth in division 43667

(B)(5) of section 4931.43 of the Revised Code, or to make any 43668  
other necessary adjustments to the plan only by convening a new 43669  
9-1-1 planning committee, and adopting an amended final plan. The 43670  
convening of a new 9-1-1 planning committee and the proposal and 43671  
adoption of an amended final plan shall be made in the same manner 43672  
required for the convening of an initial committee and adoption of 43673  
an original proposed and final plan under sections 4931.42 to 43674  
4931.44 of the Revised Code. Adoption of any resolution under 43675  
section 4931.51 of the Revised Code pursuant to a final plan that 43676  
both has been adopted and provides for funding through charges 43677  
imposed under that section is not an amendment of a final plan for 43678  
the purpose of this division. 43679

(B) When a final plan is amended to expand the territory that 43680  
receives 9-1-1 service or to upgrade a 9-1-1 system from basic to 43681  
enhanced 9-1-1 service, ~~the provisions of~~ sections 4931.47 and 43682  
~~5727.39~~ 5733.55 of the Revised Code apply with respect to the 43683  
telephone company's recovery of the nonrecurring and recurring 43684  
rates and charges for the telephone network portion of the system. 43685

**Sec. 4931.47.** (A) In accordance with Chapters 4901., 4903., 43686  
4905., 4909., and 4931. of the Revised Code, the public utilities 43687  
commission shall determine the just, reasonable, and compensatory 43688  
rates, tolls, classifications, charges, or rentals to be observed 43689  
and charged for the telephone network portion of a basic and 43690  
enhanced 9-1-1 system, and each telephone company participating in 43691  
the system shall be subject to such chapters, to the extent they 43692  
apply, as to the service provided by its portion of the telephone 43693  
network system as described in the final plan or to be installed 43694  
pursuant to agreements under section 4931.48 of the Revised Code, 43695  
and as to the rates, tolls, classifications, charges, or rentals 43696  
to be observed and charged for that service. 43697

(B) Only the customers of a participating telephone company 43698

that are served within the area covered by a 9-1-1 system shall 43699  
pay the recurring rates for the maintenance and operation of the 43700  
telephone network in providing 9-1-1 service. Such rates shall be 43701  
computed by dividing the total monthly recurring rates set forth 43702  
in a telephone company's schedule as filed in accordance with 43703  
section 4905.30 of the Revised Code, by the total number of 43704  
residential and business customer access lines, or their 43705  
equivalent, within the area served. Each residential and business 43706  
customer within the area served shall pay the recurring rates 43707  
based on the number of its residential and business customer 43708  
access lines or their equivalent. No company may include such 43709  
amount on any customer's bill until the company has completed its 43710  
portion of the telephone network in accordance with the terms, 43711  
conditions, requirements, and specifications of the final plan or 43712  
an agreement made under section 4931.48 of the Revised Code. 43713

(C)(1) Except as otherwise provided in division (C)(2) of 43714  
this section, the total nonrecurring charges for the telephone 43715  
network used in providing 9-1-1 service, as set forth in the 43716  
schedule filed by a telephone company in accordance with section 43717  
4905.30 of the Revised Code, on completion of the installation of 43718  
the network in accordance with the terms, conditions, 43719  
requirements, and specifications of the final plan or pursuant to 43720  
section 4931.48 of the Revised Code shall be recovered by the 43721  
company through the credit authorized by section ~~5727.39~~ 5733.55 43722  
of the Revised Code. 43723

(2) The credit shall not be allowed for upgrading of a system 43724  
from basic to enhanced 9-1-1 service when: 43725

(a) The telephone company received the credit for the 43726  
telephone network portion of the basic 9-1-1 system now proposed 43727  
to be upgraded; and 43728

(b) At the time the final plan or agreement pursuant to 43729  
section 4931.48 of the Revised Code calling for the basic 9-1-1 43730



system was agreed to, the telephone company was capable of 43731  
reasonably meeting the technical and economic requirements of 43732  
providing the telephone network portion of an enhanced 9-1-1 43733  
system within the territory proposed to be upgraded, as determined 43734  
by the public utilities commission under division (A) or (H) of 43735  
section 4931.41 or division (C) of section 4931.48 of the Revised 43736  
Code. 43737

(3) When the credit is not allowed under division (C)(2) of 43738  
this section, the total nonrecurring charges for the telephone 43739  
network used in providing 9-1-1 service, as set forth in the 43740  
schedule filed by a telephone company in accordance with section 43741  
4905.30 of the Revised Code, on completion of the installation of 43742  
the network in accordance with the terms, conditions, 43743  
requirements, and specifications of the final plan or pursuant to 43744  
section 4931.48 of the Revised Code, shall be paid by the 43745  
municipal corporations and townships with any territory in the 43746  
area in which such upgrade from basic to enhanced 9-1-1 service is 43747  
made. 43748

(D) Where customer premises equipment for a public safety 43749  
answering point is supplied by a telephone company that is 43750  
required to file a schedule under section 4905.30 of the Revised 43751  
Code pertaining to customer premises equipment, the recurring and 43752  
nonrecurring rates and charges for the installation and 43753  
maintenance of the equipment specified in the schedule shall 43754  
apply. 43755

**Sec. 4931.48.** (A) If a final plan is disapproved under 43756  
division (B) of section 4931.44 of the Revised Code, by 43757  
resolution, the legislative authority of a municipal corporation 43758  
or township that contains at least thirty per cent of the county's 43759  
population may establish within its boundaries, or the legislative 43760  
authorities of a group of municipal corporations or townships each 43761

of which is contiguous with at least one other such municipal 43762  
corporation or township in the group, together containing at least 43763  
thirty per cent of the county's population, may jointly establish 43764  
within their boundaries a 9-1-1 system. For this purpose, the 43765  
municipal corporation or township may enter into an agreement, and 43766  
the contiguous municipal corporations or townships may jointly 43767  
enter into an agreement with a telephone company providing service 43768  
in the municipal corporations or townships to provide for the 43769  
telephone network portion of the system. 43770

(B) If no resolution has been adopted to convene a 9-1-1 43771  
planning committee under section 4931.42 of the Revised Code, but 43772  
not sooner than eighteen months after the effective date of such 43773  
section, by resolution, the legislative authority of any municipal 43774  
corporation in the county may establish within its boundaries, or 43775  
the legislative authorities of a group of municipal corporations 43776  
and townships each of which is contiguous to at least one of the 43777  
other such municipal corporations or townships in the group may 43778  
jointly establish within their boundaries, a 9-1-1 system. The 43779  
municipal corporation or contiguous municipal corporations and 43780  
townships, may enter into an agreement with a telephone company 43781  
serving ~~customers~~ customers within the boundaries of the municipal 43782  
corporation or contiguous municipal corporations and townships, to 43783  
provide for the telephone network portion of a 9-1-1 system. 43784

(C) Whenever a telephone company and one or more municipal 43785  
corporations and townships enter into an agreement under this 43786  
section to provide for the telephone network portion of a basic 43787  
9-1-1 system, the telephone company shall so notify the public 43788  
utilities commission, which shall determine whether the telephone 43789  
company is capable of reasonably meeting the technical and 43790  
economic requirements of providing the telephone network for an 43791  
enhanced system within the territory served by the company and 43792  
covered by the agreement. The determination shall be made solely 43793

for the purposes of division (C)(2) of section 4931.47 of the Revised Code. 43794  
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(D) Within three years from the date of entering into an agreement under division (A) or (B) of this section, the telephone company shall have installed the telephone network portion of the 9-1-1 system according to the terms, conditions, requirements, and specifications set forth in the agreement. 43796  
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(E) The telephone company shall recover the cost of installing the telephone network system pursuant to agreements made under this section as provided in ~~sections~~ section 4931.47 and ~~5727.39~~ of the Revised Code, as authorized under section 5733.55 of the Revised Code. 43801  
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**Sec. 4973.17.** (A) Upon the application of any bank, building and loan association, or association of banks or building and loan associations in this state, the ~~governor~~ secretary of state may appoint and commission any persons that the bank, building and loan association, or association of banks or building and loan associations designates, or as many of those persons as the ~~governor~~ secretary of state considers proper, to act as police officers for and on the premises of that bank, building and loan association, or association of banks or building and loan associations, or elsewhere, when directly in the discharge of their duties. Police officers so appointed shall be citizens of this state and of good character. They shall hold office for three years, unless, for good cause shown, their commission is revoked by the ~~governor~~ secretary of state, or by the bank, building and loan association, or association of banks or building and loan associations, as provided by law. 43806  
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(B) Upon the application of a company owning or using a railroad in this state and subject to section 4973.171 of the Revised Code, the ~~governor~~ secretary of state may appoint and 43822  
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commission any persons that the railroad company designates, or as 43825  
many of those persons as the ~~governor~~ secretary of state considers 43826  
proper, to act as police officers for and on the premises of the 43827  
railroad company, its affiliates or subsidiaries, or elsewhere, 43828  
when directly in the discharge of their duties. Police officers so 43829  
appointed, within the time set by the Ohio peace officer training 43830  
commission, shall successfully complete a commission approved 43831  
training program and be certified by the commission. They shall 43832  
hold office for three years, unless, for good cause shown, their 43833  
commission is revoked by the ~~governor~~ secretary of state, or 43834  
railroad company, as provided by law. 43835

Any person holding a similar commission in another state may 43836  
be commissioned and may hold office in this state without 43837  
completing the approved training program required by this division 43838  
provided that ~~that~~ the person has completed a substantially 43839  
equivalent training program in the other state. The Ohio peace 43840  
officer training commission shall determine whether a training 43841  
program in another state meets the requirements of this division. 43842

(C) Upon the application of any company under contract with 43843  
the United States atomic energy commission for the construction or 43844  
operation of a plant at a site owned by ~~such~~ the commission, the 43845  
~~governor~~ secretary of state may appoint and commission ~~such~~ 43846  
persons ~~as~~ the company designates, not to exceed one hundred 43847  
fifty, to act as police officers for the company at the plant or 43848  
site owned by ~~such~~ the commission. Police officers so appointed 43849  
shall be citizens of this state and of good character. They shall 43850  
hold office for three years, unless, for good cause shown, their 43851  
commission is revoked by the ~~governor~~ secretary of state or by the 43852  
company, as provided by law. 43853

(D)(1) Upon the application of any hospital that is operated 43854  
by a public hospital agency or a nonprofit hospital agency and 43855  
that employs and maintains its own proprietary police department 43856

or security department and subject to section 4973.171 of the Revised Code, the ~~governor~~ secretary of state may appoint and commission any persons that the hospital designates, or as many of those persons as the ~~governor~~ secretary of state considers proper, to act as police officers for the hospital. No person who is appointed as a police officer under this division shall engage in any duties or activities as a police officer for the hospital or any affiliate or subsidiary of the hospital unless all of the following apply:

(a) The chief of police of the municipal corporation in which the hospital is located, or, if the hospital is located in the unincorporated area of a county, the sheriff of that county, has granted approval to the hospital to permit persons appointed as police officers under this division to engage in those duties and activities. The approval required by this division is general in nature and is intended to cover in the aggregate all persons appointed as police officers for the hospital under this division; a separate approval is not required for each appointee on an individual basis.

(b) Subsequent to the grant of approval described in division (D)(1)(a) of this section, the hospital has entered into a written agreement with the chief of police of the municipal corporation in which the hospital is located, or, if the hospital is located in the unincorporated area of a county, with the sheriff of that county, that sets forth the standards and criteria to govern the interaction and cooperation between persons appointed as police officers for the hospital under this division and law enforcement officers serving the agency represented by the chief of police or sheriff who signed the agreement in areas of their concurrent jurisdiction. The written agreement shall be signed by the appointing authority of the hospital and by the chief of police or sheriff. The standards and criteria may include, but are not

limited to, provisions governing the reporting of offenses 43889  
discovered by hospital police officers to the agency represented 43890  
by the chief of police or sheriff, provisions governing 43891  
investigatory responsibilities relative to offenses committed on 43892  
hospital property, and provisions governing the processing and 43893  
confinement of persons arrested for offenses committed on hospital 43894  
property. The agreement required by this division is intended to 43895  
apply in the aggregate to all persons appointed as police officers 43896  
for the hospital under this division; a separate agreement is not 43897  
required for each appointee on an individual basis. 43898

(c) The person has successfully completed a training program 43899  
approved by the Ohio peace officer training commission and has 43900  
been certified by the commission. A person appointed as a police 43901  
officer under this division may attend a training program approved 43902  
by the commission and be certified by the commission regardless of 43903  
whether the appropriate chief of police or sheriff has granted the 43904  
approval described in division (D)(1)(a) of this section and 43905  
regardless of whether the hospital has entered into the written 43906  
agreement described in division (D)(1)(b) of this section with the 43907  
appropriate chief of police or sheriff. 43908

(2)(a) A person who is appointed as a police officer under 43909  
division (D)(1) of this section is entitled, upon the grant of 43910  
approval described in division (D)(1)(a) of this section and upon 43911  
~~that~~ the person's and the hospital's compliance with the 43912  
requirements of divisions (D)(1)(b) and (c) of this section, to 43913  
act as a police officer for the hospital on the premises of the 43914  
hospital and of its affiliates and subsidiaries that are within 43915  
the territory of the municipal corporation served by the chief of 43916  
police or the unincorporated area of the county served by the 43917  
sheriff who signed the written agreement described in division 43918  
(D)(1)(b) of this section, whichever is applicable, and anywhere 43919  
else within the territory of that municipal corporation or within 43920

the unincorporated area of that county. The authority to act as a 43921  
police officer as described in this division is granted only if 43922  
the person, when engaging in that activity, is directly in the 43923  
discharge of ~~that~~ the person's duties as a police officer for the 43924  
hospital. The authority to act as a police officer as described in 43925  
this division shall be exercised in accordance with the standards 43926  
and criteria set forth in the written agreement described in 43927  
division (D)(1)(b) of this section. 43928

(b) Additionally, a person appointed as a police officer 43929  
under division (D)(1) of this section is entitled, upon the grant 43930  
of approval described in division (D)(1)(a) of this section and 43931  
upon ~~that~~ the person's and the hospital's compliance with the 43932  
requirements of divisions (D)(1)(b) and (c) of this section, to 43933  
act as a police officer elsewhere, within the territory of a 43934  
municipal corporation or within the unincorporated area of a 43935  
county, if the chief of police of that municipal corporation or 43936  
the sheriff of that county, respectively, has granted approval for 43937  
that activity to the hospital, police department, or security 43938  
department served by the person as a police officer and if the 43939  
person, when engaging in that activity, is directly in the 43940  
discharge of ~~that~~ the person's duties as a police officer for the 43941  
hospital. The approval described in this division may be general 43942  
in nature or may be limited in scope, duration, or applicability, 43943  
as determined by the chief of police or sheriff granting the 43944  
approval. 43945

(3) Police officers appointed under division (D)(1) of this 43946  
section shall hold office for three years, unless, for good cause 43947  
shown, their commission is revoked by the ~~governor~~ secretary of 43948  
state or by the hospital, as provided by law. As used in divisions 43949  
(D)(1) to (3) of this section, "public hospital agency" and 43950  
"nonprofit hospital agency" have the same ~~meaning~~ meanings as in 43951  
section 140.01 of the Revised Code. 43952

(E) A fee of ~~five~~ fifteen dollars for each commission applied 43953  
for under this section shall be paid at the time the application 43954  
is made, and this amount shall be returned if for any reason a 43955  
commission is not issued. 43956

**Sec. 4981.20.** (A) Any real or personal property, or both, of 43957  
the Ohio rail development commission that is acquired, 43958  
constructed, reconstructed, enlarged, improved, furnished, or 43959  
equipped, or any combination thereof, and leased or subleased 43960  
under authority of sections 4981.11 to 4981.26 of the Revised Code 43961  
shall be subject to ad valorem, sales, use, and franchise taxes 43962  
and to zoning, planning, and building regulations and fees, to the 43963  
same extent and in the same manner as if the lessee-user or 43964  
sublessee-user thereof, rather than the issuer, had acquired, 43965  
constructed, reconstructed, enlarged, improved, furnished, or 43966  
equipped, or any combination thereof, such real or personal 43967  
property, and title thereto was in the name of such lessee-user or 43968  
sublessee-user. 43969

The transfer of tangible personal property by lease or 43970  
sublease under authority of sections 4981.11 to 4981.26 of the 43971  
Revised Code is not a sale as used in Chapter 5739. of the Revised 43972  
Code. The exemptions provided in divisions (B)(1) and ~~(14)~~(13) of 43973  
section 5739.02 of the Revised Code shall not be applicable to 43974  
purchases for a project under sections 4981.11 to 4981.26 of the 43975  
Revised Code. 43976

The issuer shall be exempt from all taxes on its real or 43977  
personal property, or both, which has been acquired, constructed, 43978  
reconstructed, enlarged, improved, furnished, or equipped, or any 43979  
combination thereof, under sections 4981.11 to 4981.26 of the 43980  
Revised Code so long as such property is used by the issuer for 43981  
purposes which would otherwise exempt such property; has ceased to 43982  
be used by a former lessee-user or sublessee-user and is not 43983



occupied or used; or has been acquired by the issuer but 43984  
development has not yet commenced. The exemption shall be 43985  
effective as of the date the exempt use begins. All taxes on the 43986  
exempt real or personal property for the year should be prorated 43987  
and the taxes for the exempt portion of the year shall be remitted 43988  
by the county auditor. 43989

(B) Bonds issued under sections 4981.11 to 4981.26 of the 43990  
Revised Code, the transfer thereof, and the interest and other 43991  
income from the bonds, including any profit made on the sale 43992  
thereof, are free from taxation within the state. 43993

**Sec. 5101.11.** This section does not apply to contracts 43994  
entered into under section ~~5111.022~~, 5111.90, or 5111.91 of the 43995  
Revised Code. 43996

(A) As used in this section: 43997

(1) "Entity" includes an agency, board, commission, or 43998  
department of the state or a political subdivision of the state; a 43999  
private, nonprofit entity; a school district; a private school; or 44000  
a public or private institution of higher education. 44001

(2) "Federal financial participation" means the federal 44002  
government's share of expenditures made by an entity in 44003  
implementing a program administered by the department of job and 44004  
family services. 44005

(B) At the request of any public entity having authority to 44006  
implement a program administered by the department of job and 44007  
family services or any private entity under contract with a public 44008  
entity to implement a program administered by the department, the 44009  
department may seek to obtain federal financial participation for 44010  
costs incurred by the entity. Federal financial participation may 44011  
be sought from programs operated pursuant to Title IV-A, Title 44012  
IV-E, and Title XIX of the "Social Security Act," 49 Stat. 620 44013

(1935), 42 U.S.C. 301, as amended; the "Food Stamp Act of 1964," 44014  
78 Stat. 703, 7 U.S.C. 2011, as amended; and any other statute or 44015  
regulation under which federal financial participation may be 44016  
available, except that federal financial participation may be 44017  
sought only for expenditures made with funds for which federal 44018  
financial participation is available under federal law. 44019

(C) All funds collected by the department of job and family 44020  
services pursuant to division (B) of this section shall be 44021  
distributed to the entities that incurred the costs, except for 44022  
any amounts retained by the department pursuant to division (D)(3) 44023  
of this section. 44024

(D) In distributing federal financial participation pursuant 44025  
to this section, the department may either enter into an agreement 44026  
with the entity that is to receive the funds or distribute the 44027  
funds in accordance with rules adopted under division (F) of this 44028  
section. If the department decides to enter into an agreement to 44029  
distribute the funds, the agreement may include terms that do any 44030  
of the following: 44031

(1) Provide for the whole or partial reimbursement of any 44032  
cost incurred by the entity in implementing the program; 44033

(2) In the event that federal financial participation is 44034  
disallowed or otherwise unavailable for any expenditure, require 44035  
the department of job and family services or the entity, whichever 44036  
party caused the disallowance or unavailability of federal 44037  
financial participation, to assume responsibility for the 44038  
expenditures; 44039

(3) Permit the department to retain not more than five per 44040  
cent of the amount of the federal financial participation to be 44041  
distributed to the entity; 44042

(4) Require the public entity to certify the availability of 44043  
sufficient unencumbered funds to match the federal financial 44044

participation it receives under this section; 44045

(5) Establish the length of the agreement, which may be for a 44046  
fixed or a continuing period of time; 44047

(6) Establish any other requirements determined by the 44048  
department to be necessary for the efficient administration of the 44049  
agreement. 44050

(E) An entity that receives federal financial participation 44051  
pursuant to this section for a program aiding children and their 44052  
families shall establish a process for collaborative planning with 44053  
the department of job and family services for the use of the funds 44054  
to improve and expand the program. 44055

(F) The director of job and family services shall adopt rules 44056  
as necessary to implement this section, including rules for the 44057  
distribution of federal financial participation pursuant to this 44058  
section. The rules shall be adopted in accordance with Chapter 44059  
119. of the Revised Code. The director may adopt or amend any 44060  
statewide plan required by the federal government for a program 44061  
administered by the department, as necessary to implement this 44062  
section. 44063

(G) Federal financial participation received pursuant to this 44064  
section shall not be included in any calculation made under 44065  
section 5101.16 or 5101.161 of the Revised Code. 44066

Sec. 5101.12. The department of job and family services shall 44067  
maximize its receipt of federal revenue. In fulfilling this duty, 44068  
the department may enter into contracts to maximize federal 44069  
revenue without the expenditure of state money. In selecting 44070  
entities with which to contract, the department shall engage in a 44071  
request for proposals process. The department may also enter into 44072  
contracts with public entities providing revenue maximization 44073  
services. 44074

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.

~~(B)(1) The funds distributed under this section shall be used for the following:~~

- ~~(a) Home based services to children and families;~~
- ~~(b) Protective services to children;~~
- ~~(c) To find, develop, and approve adoptive homes;~~
- ~~(d) Short term, out of home care and treatment for children;~~
- ~~(e) Costs for the care of a child who resides with a~~

~~caretaker relative, other than the child's parent, and is in the 44104  
legal custody of a public children services agency pursuant to a 44105  
voluntary temporary custody agreement entered into under division 44106  
(A) of section 5103.15 of the Revised Code or in the legal custody 44107  
of a public children services agency or the caretaker relative 44108  
pursuant to an allegation or adjudication of abuse, neglect, or 44109  
dependency made under Chapter 2151. of the Revised Code;~~ 44110

~~(f) Other services a public children services agency 44111  
considers necessary to protect children from abuse, neglect, or 44112  
dependency. 44113~~

~~(2) No funds distributed under this section shall be used for 44114  
the costs of maintaining a child in a children's home owned and 44115  
operated by the county. 44116~~

(C) In each fiscal year, the amount of funds available for 44117  
distribution under this section shall be allocated to counties as 44118  
follows: 44119

(1) If the amount is less than the amount initially 44120  
appropriated for the immediately preceding fiscal year, each 44121  
county shall receive an amount equal to the percentage of the 44122  
funding it received in the immediately preceding fiscal year, 44123  
exclusive of any releases from or additions to the allocation or 44124  
any sanctions imposed under this section; 44125

(2) If the amount is equal to the amount initially 44126  
appropriated for the immediately preceding fiscal year, each 44127  
county shall receive an amount equal to the amount it received in 44128  
the preceding fiscal year, exclusive of any releases from or 44129  
additions to the allocation or any sanctions imposed under this 44130  
section; 44131

(3) If the amount is greater than the amount initially 44132  
appropriated for the immediately preceding fiscal year, each 44133  
county shall receive the amount determined under division (C)(2) 44134

of this section as a base allocation, plus a percentage of the 44135  
amount that exceeds the amount initially appropriated for the 44136  
immediately preceding fiscal year. The amount exceeding the amount 44137  
initially appropriated in the immediately preceding fiscal year 44138  
shall be allocated to the counties as follows: 44139

(a) Twelve per cent divided equally among all counties; 44140

(b) Forty-eight per cent in the ratio that the number of 44141  
residents of the county under the age of eighteen bears to the 44142  
total number of such persons residing in this state; 44143

(c) Forty per cent in the ratio that the number of residents 44144  
of the county with incomes under the federal poverty guideline 44145  
bears to the total number of such persons in this state. 44146

As used in division (C)(3)(c) of this section, "federal 44147  
poverty guideline" means the poverty guideline as defined by the 44148  
United States office of management and budget and revised by the 44149  
United States secretary of health and human services in accordance 44150  
with section 673 of the "Community Services Block Grant Act," 95 44151  
Stat. 511 (1981), 42 U.S.C.A. 9902, as amended. 44152

~~(D) The director of job and family services may adopt rules 44153  
as necessary for the allocation of funds under this section. The 44154  
rules shall be adopted in accordance with section 111.15 of the 44155  
Revised Code. 44156~~

~~(E)(1) As used in this division, "services to children" means 44157  
children's protective services, home based services to children 44158  
and families, foster home services, residential treatment 44159  
services, adoptive services, and independent living services. 44160~~

~~(2) Except as otherwise provided in this section, the 44161  
allocation of funds for a fiscal year to a county under this 44162  
section shall be reduced by the department if in the preceding 44163  
calendar year the total amount expended for services to children 44164  
from local funds was less than the total expended from that source 44165~~

~~in the second preceding calendar year. The reduction shall be 44166  
equal to the difference between the total expended in the 44167  
preceding calendar year and the total expended in the second 44168  
preceding calendar year. 44169~~

~~The determination of whether the amount expended for services 44170  
to children was less in the preceding calendar year than in the 44171  
second preceding calendar year shall not include a difference due 44172  
to any of the following factors to the extent that the difference 44173  
does not exceed the amount attributable to that factor: 44174~~

~~(a) An across the board reduction in the county budget as a 44175  
whole; 44176~~

~~(b) A reduced or failed levy specifically earmarked for 44177  
children services; 44178~~

~~(c) The closure of, or a reduction in the operating capacity 44179  
of, a children's home owned and operated by the county. 44180~~

~~(3) Funds withheld under this division may be reallocated by 44181  
the department to other counties. The department may grant whole 44182  
or partial waivers of the provisions of this division. 44183~~

~~(F) Children who are in the temporary or permanent custody of 44184  
a certified public or private nonprofit agency or institution, or 44185  
who are in adoptions subsidized under division (B) of section 44186  
5153.163 of the Revised Code are eligible for medical assistance 44187  
through the medical assistance program established under section 44188  
5111.01 of the Revised Code. 44189~~

~~(G) Within ninety days after the end of each state fiscal 44190  
year biennium, each county shall return any unspent funds to the 44191  
department. 44192~~

~~(H) In accordance with Chapter 119. of the Revised Code, the 44193  
(E) The director shall of job and family services may adopt, and 44194  
may amend and rescind, the following rules in accordance with 44195~~

<u>section 111.15 of the Revised Code:</u>	44196
<u>(1) Rules that are necessary for the allocation of funds</u>	44197
<u>under this section;</u>	44198
<u>(2) Rules</u> prescribing reports on expenditures to be submitted	44199
by the counties as necessary for the implementation of this	44200
section.	44201
<b>Sec. 5101.141.</b> (A) <u>As used in sections 5101.141 to 5101.1410</u>	44202
<u>of the Revised Code, "Title IV-E" means Title IV-E of the "Social</u>	44203
<u>Security Act," 94 Stat. 501, 42 U.S.C. 670 (1980), as amended.</u>	44204
(B) The department of job and family services shall act as	44205
the single state agency to administer federal payments for foster	44206
care and adoption assistance made pursuant to Title IV-E <del>of the</del>	44207
<del>"Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as</del>	44208
<del>amended.</del> The director of job and family services shall adopt rules	44209
to implement this authority. <del>Internal management rules</del> <u>Rules</u>	44210
governing financial and administrative requirements applicable to	44211
public children services agencies, <del>private child placing agencies,</del>	44212
and <del>private noncustodial agencies</del> <u>government entities that provide</u>	44213
<u>Title IV-E reimbursable placement services to children</u> shall be	44214
adopted in accordance with section 111.15 of the Revised Code, <u>as</u>	44215
<u>if they were internal management rules.</u> Rules <u>governing</u>	44216
<u>requirements applicable to private child placing agencies and</u>	44217
<u>private noncustodial agencies and rules</u> establishing eligibility,	44218
program participation, and other requirements <u>concerning Title</u>	44219
<u>IV-E</u> shall be adopted in accordance with Chapter 119. of the	44220
Revised Code. A public children services agency to which the	44221
department distributes Title IV-E funds shall administer the funds	44222
in accordance with those rules.	44223
<del>(B)</del> (C)(1) The county, on behalf of each child eligible for	44224
foster care maintenance payments under Title IV-E <del>of the "Social</del>	44225
<del>Security Act,"</del> shall make payments to cover the cost of providing	44226



all of the following: 44227

(a) The child's food, clothing, shelter, daily supervision, 44228  
and school supplies; 44229

(b) The child's personal incidentals; 44230

(c) Reasonable travel to the child's home for visitation. 44231

(2) In addition to payments made under division ~~(B)~~(C)(1) of 44232  
this section, the county may, on behalf of each child eligible for 44233  
foster care maintenance payments under Title IV-E of the "~~Social~~ 44234  
~~Security Act,~~" make payments to cover the cost of providing the 44235  
following: 44236

(a) Liability insurance with respect to the child; 44237

(b) If the county is participating in the demonstration 44238  
project established under division (A) of section 5101.142 of the 44239  
Revised Code, services provided under the project. 44240

(3) With respect to a child who is in a child-care 44241  
institution, including any type of group home designed for the 44242  
care of children or any privately operated program consisting of 44243  
two or more certified foster homes operated by a common 44244  
administrative unit, the foster care maintenance payments made by 44245  
the county on behalf of the child shall include the reasonable 44246  
cost of the administration and operation of the institution, group 44247  
home, or program, as necessary to provide the items described in 44248  
divisions ~~(B)~~(C)(1) and (2) of this section. 44249

~~(C)~~(D) To the extent that either foster care maintenance 44250  
payments under division ~~(B)~~ (C) of this section or Title IV-E 44251  
adoption assistance payments for maintenance costs require the 44252  
expenditure of county funds, the board of county commissioners 44253  
shall report the nature and amount of each expenditure of county 44254  
funds to the department. 44255

~~(D)~~(E) The department shall distribute to public children 44256

services agencies that incur and report such expenditures federal 44257  
financial participation received for administrative and training 44258  
costs incurred in the operation of foster care maintenance and 44259  
adoption assistance programs. The department may withhold not more 44260  
than three per cent of the federal financial participation 44261  
received. The funds withheld may be used only to fund the Ohio 44262  
child welfare training program established under section 5153.60 44263  
of the Revised Code and the university partnership program for 44264  
college and university students majoring in social work who have 44265  
committed to work for a public children services agency upon 44266  
graduation. The funds withheld shall be in addition to any 44267  
administration and training cost for which the department is 44268  
reimbursed through its own cost allocation plan. 44269

~~(E)~~(F) All federal financial participation funds received by 44270  
a county pursuant to this section shall be deposited into the 44271  
county's children services fund created pursuant to section 44272  
5101.144 of the Revised Code. 44273

~~(F)~~(G) The department shall periodically publish and 44274  
distribute the maximum amounts that the department will reimburse 44275  
public children services agencies for making payments on behalf of 44276  
children eligible for foster care maintenance payments. 44277

~~(G)~~(H) The department, by and through its director, is hereby 44278  
authorized to develop, participate in the development of, 44279  
negotiate, and enter into one or more interstate compacts on 44280  
behalf of this state with agencies of any other states, for the 44281  
provision of medical assistance and other social services to 44282  
children in relation to whom all of the following apply: 44283

(1) They have special needs. 44284

(2) This state or another state that is a party to the 44285  
interstate compact is providing adoption assistance on their 44286  
behalf. 44287

(3) They move into this state from another state or move out of this state to another state. 44288  
44289

**Sec. 5101.142.** (A) The department of job and family services 44290  
may apply to the United States secretary of health and human 44291  
services for a waiver of requirements established under Title IV-E 44292  
of the ~~"Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670~~ 44293  
~~(1980)~~, or regulations adopted thereunder, to conduct a 44294  
demonstration project expanding eligibility for and services 44295  
provided under Title IV-E. The department may enter into 44296  
agreements with the secretary necessary to implement the 44297  
demonstration project, including agreements establishing the terms 44298  
and conditions of the waiver authorizing the project. If a 44299  
demonstration project is to be established, the department shall 44300  
do all of the following: 44301

(1) Have the director of job and family services adopt rules 44302  
in accordance with Chapter 119. of the Revised Code governing the 44303  
project. The rules shall be consistent with the agreements the 44304  
department enters into with the secretary. 44305

(2) Enter into agreements with public children services 44306  
agencies that the department selects for participation in the 44307  
project. The department shall not select an agency that objects to 44308  
participation or refuses to be bound by the terms and conditions 44309  
of the project. 44310

(3) Contract with persons or governmental agencies providing 44311  
services under the project; 44312

(4) Amend the state plan required by section 471 of the 44313  
"Social Security Act," 42 U.S.C.A. 671, as amended, as needed to 44314  
implement the project; 44315

(5) Conduct ongoing evaluations of the project; 44316

(6) Perform other administrative and operational activities 44317

required by the agreement with the secretary. 44318

(B) The department may apply to the United States secretary 44319  
of health and human services for a waiver of the requirements 44320  
established under Title IV-B of the "Social Security Act of 1967," 44321  
81 Stat. 821, 42 U.S.C.A. 620 or regulations adopted thereunder 44322  
and established under any other federal law or regulations that 44323  
affect the children services functions prescribed by Chapter 5153. 44324  
of the Revised Code, to conduct demonstration projects or 44325  
otherwise improve the effectiveness and efficiency of the children 44326  
services function. 44327

~~Sec. 5101.144. As used in this section, "children services" 44328  
means services provided to children pursuant to Chapter 5153. of 44329  
the Revised Code. 44330~~

Each county shall deposit all funds its public children 44331  
services agency receives from appropriations made by the board of 44332  
county commissioners or any other source for the purpose of 44333  
providing children services into a special fund in the county 44334  
treasury known as the children services fund. A county shall use 44335  
money in the fund only for the purposes of meeting the expenses of 44336  
providing children services. 44337

~~Sec. 5101.145. (A) For the purposes of this section, "Title 44338  
IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 44339  
42 U.S.C.A. 670 (1980). 44340~~

~~(B) In adopting rules under section 5101.141 of the Revised 44341  
Code regarding financial requirements applicable to public 44342  
children services agencies, private child placing agencies, and 44343  
private noncustodial agencies, and government entities that 44344  
provide Title IV-E reimbursable placement services to children, 44345  
the department of job and family services shall establish both of 44346  
the following: 44347~~

(1) A single form for the agencies or entities to report 44348  
costs reimbursable under Title IV-E and costs reimbursable under 44349  
medicaid; 44350

(2) Procedures to monitor cost reports submitted by the 44351  
agencies or entities. 44352

~~(C)~~(B) The procedures established under division ~~(B)~~(A)(2) of 44353  
this section shall be implemented not later than October 1, 2003. 44354  
The procedures shall be used to do both of the following: 44355

(1) Determine which of the costs are reimbursable under Title 44356  
IV-E; 44357

(2) Ensure that costs reimbursable under medicaid are 44358  
excluded from determinations made under division ~~(C)~~(B)(1) of this 44359  
section. 44360

**Sec. 5101.146.** The department of job and family services 44361  
shall establish the following penalties, which shall be enforced 44362  
at the discretion of the department, for the failure of a public 44363  
children services agency, private child placing agency, ~~or~~ private 44364  
noncustodial agency, or government entity that provides Title IV-E 44365  
reimbursable placement services to children to comply with 44366  
procedures the department establishes to ensure fiscal 44367  
accountability: 44368

(A) For initial failure, the department and the agency or 44369  
entity involved shall jointly develop and implement a corrective 44370  
action plan according to a specific schedule. If requested by the 44371  
agency or entity involved, the department shall provide technical 44372  
assistance to the agency or entity to ensure the fiscal 44373  
accountability procedures and goals of the plan are met. 44374

(B) For subsequent failures or failure to achieve the goals 44375  
of the plan described in division (A) of this section, ~~either one~~ 44376  
of the following: 44377

(1) For public children services agencies, the department may 44378  
take any action permitted under division (B)(3), (4), or (5) of 44379  
section 5101.24 of the Revised Code. 44380

(2) For private child placing agencies or private 44381  
noncustodial agencies, cancellation of any Title IV-E allowability 44382  
rates for the agency involved pursuant to section 5101.141 of the 44383  
Revised Code or revocation pursuant to Chapter 119. of the Revised 44384  
Code of that agency's certificate issued under section 5103.03 of 44385  
the Revised Code; 44386

(3) For government entities, other than public children 44387  
services agencies, that provide Title IV-E reimbursable placement 44388  
services to children, cancellation of any Title IV-E allowability 44389  
rates for the entity involved pursuant to section 5101.141 of the 44390  
Revised Code. 44391

Sec. 5101.1410. In addition to the remedies available under 44392  
sections 5101.146 and 5101.24 of the Revised Code, the department 44393  
of job and family services may certify a claim to the attorney 44394  
general under section 131.02 of the Revised Code for the attorney 44395  
general to take action under that section against a public 44396  
children services agency, private child placing agency, private 44397  
noncustodial agency, or government entity that provides Title IV-E 44398  
reimbursable placement services to children if all of the 44399  
following are the case: 44400

(A) The agency or entity files a cost report with the 44401  
department pursuant to rules adopted under division (B) of section 44402  
5101.141 of the Revised Code. 44403

(B) The department receives and distributes federal Title 44404  
IV-E reimbursement funds based on the cost report. 44405

(C) The agency's or entity's misstatement, misclassification, 44406  
overstatement, understatement, or other inclusion or omission of 44407

any cost included in the cost report causes the United States 44408  
department of health and human services to disallow all or part of 44409  
the federal Title IV-E reimbursement funds the department received 44410  
and distributed. 44411

**Sec. 5101.16.** (A) As used in this section and sections 44412  
5101.161 and 5101.162 of the Revised Code: 44413

(1) "Disability financial assistance" means the financial and 44414  
~~medical~~ assistance ~~provided~~ program established under Chapter 44415  
5115. of the Revised Code. 44416

(2) "Disability medical assistance" means the medical 44417  
assistance program established under Chapter 5115. of the Revised 44418  
Code. 44419

(3) "Food stamps" means the program administered by the 44420  
department of job and family services pursuant to section 5101.54 44421  
of the Revised Code. 44422

~~(3)~~(4) "Medicaid" means the medical assistance program 44423  
established by Chapter 5111. of the Revised Code, excluding 44424  
transportation services provided under that chapter. 44425

~~(4)~~(5) "Ohio works first" means the program established by 44426  
Chapter 5107. of the Revised Code. 44427

~~(5)~~(6) "Prevention, retention, and contingency" means the 44428  
program established by Chapter 5108. of the Revised Code. 44429

~~(6)~~(7) "Public assistance expenditures" means expenditures 44430  
for all of the following: 44431

(a) Ohio works first; 44432

(b) County administration of Ohio works first; 44433

(c) Prevention, retention, and contingency; 44434

(d) County administration of prevention, retention, and 44435  
contingency; 44436

(e) Disability <u>financial</u> assistance;	44437
(f) <u>Disability medical</u> assistance;	44438
<u>(g)</u> County administration of disability <u>financial</u> assistance;	44439
<del>(g)</del> <u>(h)</u> County administration of disability <u>medical</u> <u>assistance</u> ;	44440 44441
<u>(i)</u> County administration of food stamps;	44442
<del>(h)</del> <u>(j)</u> County administration of medicaid.	44443
<u>(7) "Title IV-A program" has the same meaning as in section</u> <u>5101.80 of the Revised Code.</u>	44444 44445
(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:	44446 44447 44448 44449 44450 44451
(1) The amount that is twenty-five per cent of the county's total expenditures for disability <u>financial assistance and</u> <u>disability medical</u> assistance and county administration of <del>disability assistance</del> <u>those programs</u> during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.	44452 44453 44454 44455 44456 44457
(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of food stamps and medicaid during the state fiscal year ending in the previous calendar year that the department determines are allowable, less the amount of federal reimbursement credited to the county under division (E) of this section for the state fiscal year ending in the previous calendar year;	44458 44459 44460 44461 44462 44463 44464 44465
<del>(3)(a) Except as provided in division (B)(3)(b) of this</del>	44466



~~section, A percentage of the actual amount, as determined by the~~ 44467  
~~department of job and family services from expenditure reports~~ 44468  
~~submitted to the United States department of health and human~~ 44469  
~~services,~~ of the county share of program and administrative 44470  
expenditures during federal fiscal year 1994 for assistance and 44471  
services, other than child day-care, provided under Titles IV-A 44472  
and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 44473  
U.S.C. 301, as those titles existed prior to the enactment of the 44474  
"Personal Responsibility and Work Opportunity Reconciliation Act 44475  
of 1996," 110 Stat. 2105. The department of job and family 44476  
services shall determine the actual amount of the county share 44477  
from expenditure reports submitted to the United States department 44478  
of health and human services. The percentage shall be the 44479  
percentage established in rules adopted under division (F) of this 44480  
section. 44481

~~(b) For state fiscal years 2000 and 2001, seventy seven per~~ 44482  
~~cent of the amount determined under division (B)(3)(a) of this~~ 44483  
~~section.~~ 44484

(C)(1) If a county's share of public assistance expenditures 44485  
determined under division (B) of this section for a state fiscal 44486  
year exceeds one hundred ten per cent of the county's share for 44487  
those expenditures for the immediately preceding state fiscal 44488  
year, the department of job and family services shall reduce the 44489  
county's share for expenditures under divisions (B)(1) and (2) of 44490  
this section so that the total of the county's share for 44491  
expenditures under division (B) of this section equals one hundred 44492  
ten per cent of the county's share of those expenditures for the 44493  
immediately preceding state fiscal year. 44494

(2) A county's share of public assistance expenditures 44495  
determined under division (B) of this section may be increased 44496  
pursuant to a sanction under section 5101.24 of the Revised Code. 44497

(D)(1) If the per capita tax duplicate of a county is less 44498

than the per capita tax duplicate of the state as a whole and 44499  
division (D)(2) of this section does not apply to the county, the 44500  
percentage to be used for the purpose of division (B)(2) of this 44501  
section is the product of ten multiplied by a fraction of which 44502  
the numerator is the per capita tax duplicate of the county and 44503  
the denominator is the per capita tax duplicate of the state as a 44504  
whole. The department of job and family services shall compute the 44505  
per capita tax duplicate for the state and for each county by 44506  
dividing the tax duplicate for the most recent available year by 44507  
the current estimate of population prepared by the department of 44508  
development. 44509

(2) If the percentage of families in a county with an annual 44510  
income of less than three thousand dollars is greater than the 44511  
percentage of such families in the state and division (D)(1) of 44512  
this section does not apply to the county, the percentage to be 44513  
used for the purpose of division (B)(2) of this section is the 44514  
product of ten multiplied by a fraction of which the numerator is 44515  
the percentage of families in the state with an annual income of 44516  
less than three thousand dollars a year and the denominator is the 44517  
percentage of such families in the county. The department of job 44518  
and family services shall compute the percentage of families with 44519  
an annual income of less than three thousand dollars for the state 44520  
and for each county by multiplying the most recent estimate of 44521  
such families published by the department of development, by a 44522  
fraction, the numerator of which is the estimate of average annual 44523  
personal income published by the bureau of economic analysis of 44524  
the United States department of commerce for the year on which the 44525  
census estimate is based and the denominator of which is the most 44526  
recent such estimate published by the bureau. 44527

(3) If the per capita tax duplicate of a county is less than 44528  
the per capita tax duplicate of the state as a whole and the 44529  
percentage of families in the county with an annual income of less 44530

than three thousand dollars is greater than the percentage of such 44531  
families in the state, the percentage to be used for the purpose 44532  
of division (B)(2) of this section shall be determined as follows: 44533

(a) Multiply ten by the fraction determined under division 44534  
(D)(1) of this section; 44535

(b) Multiply the product determined under division (D)(3)(a) 44536  
of this section by the fraction determined under division (D)(2) 44537  
of this section. 44538

(4) The department of job and family services shall 44539  
determine, for each county, the percentage to be used for the 44540  
purpose of division (B)(2) of this section not later than the 44541  
first day of July of the year preceding the state fiscal year for 44542  
which the percentage is used. 44543

(E) The department of job and family services shall credit to 44544  
a county the amount of federal reimbursement the department 44545  
receives from the United States departments of agriculture and 44546  
health and human services for the county's expenditures for 44547  
administration of food stamps and medicaid that the department 44548  
determines are allowable administrative expenditures. 44549

(F)(1) The director of job and family services shall adopt 44550  
rules in accordance with section 111.15 of the Revised Code to 44551  
establish all of the following: 44552

~~(1)~~(a) The method the department is to use to change a 44553  
county's share of public assistance expenditures determined under 44554  
division (B) of this section as provided in division (C) of this 44555  
section; 44556

~~(2)~~(b) The allocation methodology and formula the department 44557  
will use to determine the amount of funds to credit to a county 44558  
under this section; 44559

~~(3)~~(c) The method the department will use to change the 44560

payment of the county share of public assistance expenditures from 44561  
a calendar-year basis to a state fiscal year basis; 44562

(4)(d) The percentage to be used for the purpose of division 44563  
(B)(3) of this section, which shall meet both of the following 44564  
requirements: 44565

(i) The percentage shall not be less than seventy-five per 44566  
cent nor more than eighty-two per cent; 44567

(ii) The percentage shall not exceed the percentage that the 44568  
state's qualified state expenditures is of the state's historic 44569  
state expenditures as those terms are defined in 42 U.S.C. 44570  
609(a)(7). 44571

(e) Other procedures and requirements necessary to implement 44572  
this section. 44573

(2) The director of job and family services may amend the 44574  
rule adopted under division (F)(1)(d) of this section to modify 44575  
the percentage on determination that the amount the general 44576  
assembly appropriates for Title IV-A programs makes the 44577  
modification necessary. The rule shall be adopted and amended as 44578  
if an internal management rule and in consultation with the 44579  
director of budget and management. 44580

**Sec. 5101.18.** (A) When the director of job and family 44581  
services adopts rules under section 5107.05 regarding income 44582  
requirements for the Ohio works first program and under section 44583  
~~5115.05~~ 5115.03 of the Revised Code regarding income and resource 44584  
requirements for the disability financial assistance program, the 44585  
director shall determine what payments shall be regarded or 44586  
disregarded. In making this determination, the director shall 44587  
consider: 44588

(1) The source of the payment; 44589

(2) The amount of the payment; 44590

(3) The purpose for which the payment was made; 44591

(4) Whether regarding the payment as income would be in the 44592  
public interest; 44593

(5) Whether treating the payment as income would be 44594  
detrimental to any of the programs administered in whole or in 44595  
part by the department of job and family services and whether such 44596  
determination would jeopardize the receipt of any federal grant or 44597  
payment by the state or any receipt of aid under Chapter 5107. of 44598  
the Revised Code. 44599

(B) Any recipient of aid under Title XVI of the "Social 44600  
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, 44601  
whose money payment is discontinued as the result of a general 44602  
increase in old-age, survivors, and disability insurance benefits 44603  
under such act, shall remain a recipient for the purpose of 44604  
receiving medical assistance through the medical assistance 44605  
program established under section 5111.01 of the Revised Code. 44606

**Sec. 5101.181.** (A) As used in this section and section 44607  
5101.182 of the Revised Code, "public assistance" includes, in 44608  
addition to Ohio works first; ~~prevention~~, all of the following: 44609

(1) Prevention retention, and contingency; ~~medicaid~~ 44610

(2) Medicaid; ~~and disability~~ 44611

(3) Disability financial assistance, ~~general;~~ 44612

(4) Disability medical assistance; 44613

(5) General assistance provided prior to July 17, 1995, under 44614  
former Chapter 5113. of the Revised Code. 44615

(B) As part of the procedure for the determination of 44616  
overpayment to a recipient of public assistance under Chapter 44617  
5107., 5108., 5111., or 5115. of the Revised Code, the director of 44618  
job and family services shall furnish quarterly the name and 44619

social security number of each individual who receives public 44620  
assistance to the director of administrative services, the 44621  
administrator of the bureau of workers' compensation, and each of 44622  
the state's retirement boards. Within fourteen days after 44623  
receiving the name and social security number of an individual who 44624  
receives public assistance, the director of administrative 44625  
services, administrator, or board shall inform the auditor of 44626  
state as to whether such individual is receiving wages or 44627  
benefits, the amount of any wages or benefits being received, the 44628  
social security number, and the address of the individual. The 44629  
director of administrative services, administrator, boards, and 44630  
any agent or employee of those officials and boards shall comply 44631  
with the rules of the director of job and family services 44632  
restricting the disclosure of information regarding recipients of 44633  
public assistance. Any person who violates this provision shall 44634  
thereafter be disqualified from acting as an agent or employee or 44635  
in any other capacity under appointment or employment of any state 44636  
board, commission, or agency. 44637

(C) The auditor of state may enter into a reciprocal 44638  
agreement with the director of job and family services or 44639  
comparable officer of any other state for the exchange of names, 44640  
current or most recent addresses, or social security numbers of 44641  
persons receiving public assistance under Title IV-A or under 44642  
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 44643  
U.S.C. 301, as amended. 44644

(D)(1) The auditor of state shall retain, for not less than 44645  
two years, at least one copy of all information received under 44646  
this section and sections 145.27, 742.41, 3307.20, 3309.22, 44647  
4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor 44648  
shall review the information to determine whether overpayments 44649  
were made to recipients of public assistance under Chapters 5107., 44650  
5108., 5111., and 5115. of the Revised Code. The auditor of state 44651

shall initiate action leading to prosecution, where warranted, of 44652  
recipients who received overpayments by forwarding the name of 44653  
each recipient who received overpayment, together with other 44654  
pertinent information, to the director of job and family services 44655  
and the attorney general, to the district director of job and 44656  
family services of the district through which public assistance 44657  
was received, and to the county director of job and family 44658  
services and county prosecutor of the county through which public 44659  
assistance was received. 44660

(2) The auditor of state and the attorney general or their 44661  
designees may examine any records, whether in computer or printed 44662  
format, in the possession of the director of job and family 44663  
services or any county director of job and family services. They 44664  
shall provide safeguards which restrict access to such records to 44665  
purposes directly connected with an audit or investigation, 44666  
prosecution, or criminal or civil proceeding conducted in 44667  
connection with the administration of the programs and shall 44668  
comply with the rules of the director of job and family services 44669  
restricting the disclosure of information regarding recipients of 44670  
public assistance. Any person who violates this provision shall 44671  
thereafter be disqualified from acting as an agent or employee or 44672  
in any other capacity under appointment or employment of any state 44673  
board, commission, or agency. 44674

(3) Costs incurred by the auditor of state in carrying out 44675  
the auditor of state's duties under this division shall be borne 44676  
by the auditor of state. 44677

Sec. 5101.214. The director of job and family services may 44678  
enter into agreements with one-stop operators and one-stop 44679  
partners for the purpose of implementing the requirements of 44680  
section 121 of the "Workforce Investment Act of 1998," 112 Stat. 44681  
936, 29 U.S.C. 2801. 44682

Sec. 5101.26. As used in this section and in sections 5101.27 44683  
to 5101.30 of the Revised Code: 44684

(A) "County agency" means a county department of job and 44685  
family services or a public children services agency. 44686

(B) "Fugitive felon" means an individual who is fleeing to 44687  
avoid prosecution, or custody or confinement after conviction, 44688  
under the laws of the place from which the individual is fleeing, 44689  
for a crime or an attempt to commit a crime that is a felony under 44690  
the laws of the place from which the individual is fleeing or, in 44691  
the case of New Jersey, a high misdemeanor, regardless of whether 44692  
the individual has departed from the individual's usual place of 44693  
residence. 44694

(C) "Information" means records as defined in section 149.011 44695  
of the Revised Code, any other documents in any format, and data 44696  
derived from records and documents that are generated, acquired, 44697  
or maintained by the department of job and family services, a 44698  
county agency, or an entity performing duties on behalf of the 44699  
department or a county agency. 44700

(D) "Law enforcement agency" means the state highway patrol, 44701  
an agency that employs peace officers as defined in section 109.71 44702  
of the Revised Code, the adult parole authority, a county 44703  
department of probation, a prosecuting attorney, the attorney 44704  
general, similar agencies of other states, federal law enforcement 44705  
agencies, and postal inspectors. "Law enforcement agency" includes 44706  
the peace officers and other law enforcement officers employed by 44707  
the agency. 44708

(E) "Medical assistance provided under a public assistance 44709  
program" means medical assistance provided under the programs 44710  
established under sections 5101.49, 5101.50 to 5101.503, and 44711  
5101.51 to 5101.5110, Chapters 5111. and 5115., or any other 44712



provision of the Revised Code. 44713

(F) "Public assistance" means financial assistance, medical 44714  
assistance, or social services provided under a program 44715  
administered by the department of job and family services or a 44716  
county agency pursuant to Chapter 329., 5101., 5104., 5107., 44717  
5108., 5111., or 5115. of the Revised Code or an executive order 44718  
issued under section 107.17 of the Revised Code. 44719

~~(F)~~(G) "Public assistance recipient" means an applicant for 44720  
or recipient or former recipient of public assistance. 44721

**Sec. 5101.27.** (A) Except as permitted by this section, 44722  
section 5101.28 or 5101.29 of the Revised Code, or the rules 44723  
adopted under division (A) of section 5101.30 of the Revised Code, 44724  
or required by federal law, no person or government entity shall 44725  
solicit, disclose, receive, use, or knowingly permit, or 44726  
participate in the use of any information regarding a public 44727  
assistance recipient for any purpose not directly connected with 44728  
the administration of a public assistance program. 44729

(B)~~(1)~~ To the extent permitted by federal law, the department 44730  
of job and family services and county agencies shall ~~release~~ do 44731  
both of the following: 44732

(1) Release information regarding a public assistance 44733  
recipient for purposes directly connected to the administration of 44734  
the program to a government entity responsible for administering a 44735  
~~that~~ public assistance program ~~or any other state, federal, or~~ 44736  
~~federally assisted program that provides cash or in-kind~~ 44737  
~~assistance or services directly to individuals based on need or~~ 44738  
~~for the purpose of protecting children to a government entity~~ 44739  
~~responsible for administering a children's protective services~~ 44740  
~~program.~~i 44741

~~(2) To the extent permitted by federal law, the department~~ 44742

~~and county agencies shall provide~~ Provide information regarding a 44743  
public assistance recipient to a law enforcement agency for the 44744  
purpose of any investigation, prosecution, or criminal or civil 44745  
proceeding relating to the administration of ~~a~~ that public 44746  
assistance program. 44747

(C) To the extent permitted by federal law and section 44748  
1347.08 of the Revised Code, the department and county agencies 44749  
shall provide access to information regarding a public assistance 44750  
recipient to all of the following: 44751

(1) The recipient; 44752

(2) The authorized representative, ~~as defined in rules~~ 44753  
~~adopted under section 5101.30 of the Revised Code, of the~~ 44754  
~~recipient;~~ 44755

(3) The ~~parent or~~ legal guardian of the recipient; 44756

(4) The attorney of the recipient, if the attorney has 44757  
written authorization that complies with section 5101.271 of the 44758  
Revised Code from the recipient. 44759

(D) To the extent permitted by federal law and subject to 44760  
division (E) of this section, the department and county agencies 44761  
may ~~release~~ do both of the following: 44762

(1) Release information about a public assistance recipient 44763  
if the recipient gives voluntary, written ~~consent that~~ 44764  
~~specifically identifies the persons or government entities to~~ 44765  
~~which the information may be released.~~ 44766

The authorization that complies with section 5101.271 of the 44767  
Revised Code; 44768

(2) Release information regarding a public assistance 44769  
recipient to a state, federal, or federally assisted program that 44770  
provides cash or in-kind assistance or services directly to 44771  
individuals based on need or for the purpose of protecting 44772

children to a government entity responsible for administering a 44773  
children's protective services program. 44774

(E) Except when the release is required by division (B), (C), 44775  
or (D)(2) of this section, the department or county agency shall 44776  
release the information only to the persons or government entities 44777  
specified in the document evidencing consent. Consent may be 44778  
time limited or ongoing, at the discretion of the individual 44779  
giving it, and may be rescinded at any time; however, an 44780  
individual cannot rescind consent retroactively. The document 44781  
evidencing consent must state that consent may be rescinded in 44782  
accordance with the authorization. The department or county agency 44783  
shall provide, at no cost, a copy of each written authorization to 44784  
the individual who signed it. 44785

(F) The department or a county agency may release information 44786  
under this division (D) of this section concerning a the receipt 44787  
of medical assistance provided under Chapter 5111. of the Revised 44788  
Code a public assistance program only if both all of the following 44789  
conditions are the case met: 44790

(1) The release of information is for purposes directly 44791  
connected to the administration of ~~programs created under Chapter~~ 44792  
~~5111. of the Revised Code or services provision of medical~~ 44793  
assistance provided under programs created under that chapter a 44794  
public assistance program; 44795

(2) The information is released to persons or government 44796  
entities that are subject to standards of confidentiality and 44797  
safeguarding information substantially comparable to those 44798  
established for ~~programs created under Chapter 5111. of the~~ 44799  
~~Revised Code~~ medical assistance provided under a public assistance 44800  
program; 44801

(3) The department or county agency has obtained an 44802  
authorization consistent with section 5101.271 of the Revised 44803

<u>Code.</u>	44804
<u>(G) Information concerning the receipt of medical assistance provided under a public assistance program may be released only if the release complies with this section and rules adopted by the department pursuant to section 5101.30 of the Revised Code or, if more restrictive, the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as amended, and regulations adopted by the United States department of health and human services to implement the act.</u>	44805 44806 44807 44808 44809 44810 44811 44812 44813
<u>(H) The department of job and family services may adopt rules defining "authorized representative" for purposes of division (C)(2) of this section.</u>	44814 44815 44816
<u>Sec. 5101.271. (A) For the purposes of section 5101.27 of the Revised Code, an authorization shall be made on a form that uses language understandable to the average person and contains all of the following:</u>	44817 44818 44819 44820
<u>(1) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;</u>	44821 44822 44823
<u>(2) The name or other specific identification of the person or class of persons authorized to make the requested use or disclosure;</u>	44824 44825 44826
<u>(3) The name or other specific identification of the person or governmental entity to which the information may be released;</u>	44827 44828
<u>(4) A description of each purpose of the requested use or disclosure of the information;</u>	44829 44830
<u>(5) The date on which the authorization expires or an event related either to the individual who is the subject of the request or to the purposes of the requested use or disclosure, the</u>	44831 44832 44833

<u>occurrence of which will cause the authorization to expire;</u>	44834
<u>(6) A statement that the information used or disclosed pursuant to the authorization may be disclosed by the recipient of the information and may no longer be protected from disclosure;</u>	44835 44836 44837
<u>(7) The signature of the individual or the individual's authorized representative and the date on which the authorization was signed;</u>	44838 44839 44840
<u>(8) If signed by an authorized representative, a description of the representative's authority to act for the individual;</u>	44841 44842
<u>(9) A statement of the individual or authorized representative's right to prospectively revoke the written authorization in writing, along with one of the following:</u>	44843 44844 44845
<u>(a) A description of how the individual or authorized representative may revoke the authorization;</u>	44846 44847
<u>(b) If the department of job and family services' privacy notice contains a description of how the individual or authorized representative may revoke the authorization, a reference to that privacy notice.</u>	44848 44849 44850 44851
<u>(10) A statement that treatment, payment, enrollment, or eligibility for public assistance cannot be conditioned on signing the authorization unless the authorization is necessary for determining eligibility for the public assistance program.</u>	44852 44853 44854 44855
<u>(B) When an individual requests information pursuant to section 5101.27 of the Revised Code regarding the individual's receipt of public assistance and does not wish to provide a statement of purpose, the statement "at request of the individual" is a sufficient description for purposes of division (A)(4) of this section.</u>	44856 44857 44858 44859 44860 44861
<b>Sec. 5101.28.</b> <del>(A) The department of job and family services shall enter into written agreements with law enforcement agencies</del>	44862 44863

~~to exchange, obtain, or share~~ (1) On request of the department of 44864  
job and family services or a county agency, a law enforcement 44865  
agency shall provide information regarding public assistance 44866  
recipients to enable the department, ~~or county agencies, and law~~ 44867  
~~enforcement agencies~~ agency to determine, for eligibility 44868  
purposes, whether a recipient or a member of a recipient's 44869  
assistance group is ~~either of the following:~~ 44870

~~(1) A a fugitive felon;~~ 44871

~~(2) Violating felon or violating~~ a condition of probation, a 44872  
community control sanction, parole, or a post-release control 44873  
sanction imposed under state or federal law. 44874

(2) A county agency may enter into a written agreement with a 44875  
local law enforcement agency establishing procedures concerning 44876  
access to information and providing for compliance with division 44877  
(F) of this section. 44878

(B) ~~The~~ To the extent permitted by federal law, the 44879  
department and county agencies shall provide information, except 44880  
information directly related to the receipt of medical assistance 44881  
or medical services, regarding recipients of public assistance 44882  
under a program administered by the state department or a county 44883  
agency pursuant to Chapter 5107., 5108., or 5115. of the Revised 44884  
Code to law enforcement agencies on request for the purposes of 44885  
investigations, prosecutions, and criminal and civil proceedings 44886  
that are within the scope of the law enforcement agencies' 44887  
official duties. 44888

(C) Information about a recipient shall be exchanged, 44889  
obtained, or shared only if the department, county agency, or law 44890  
enforcement agency requesting the information gives sufficient 44891  
information to specifically identify the recipient. In addition to 44892  
the recipient's name, identifying information may include the 44893  
recipient's current or last known address, social security number, 44894

other identifying number, age, gender, physical characteristics, 44895  
any information specified in an agreement entered into under 44896  
division (A) of this section, or any information considered 44897  
appropriate by the department or agency. 44898

(D)(1) The department and its officers and employees are not 44899  
liable in damages in a civil action for any injury, death, or loss 44900  
to person or property that allegedly arises from the release of 44901  
information in accordance with divisions (A), (B), and (C) of this 44902  
section. This section does not affect any immunity or defense that 44903  
the department and its officers and employees may be entitled to 44904  
under another section of the Revised Code or the common law of 44905  
this state, including section 9.86 of the Revised Code. 44906

(2) The county agencies and their employees are not liable in 44907  
damages in a civil action for any injury, death, or loss to person 44908  
or property that allegedly arises from the release of information 44909  
in accordance with divisions (A), (B), and (C) of this section. 44910  
"Employee" has the same meaning as in division (B) of section 44911  
2744.01 of the Revised Code. This section does not affect any 44912  
immunity or defense that the county agencies and their employees 44913  
may be entitled to under another section of the Revised Code or 44914  
the common law of this state, including section 2744.02 and 44915  
division (A)(6) of section 2744.03 of the Revised Code. 44916

(E) To the extent permitted by federal law, the department 44917  
and county agencies shall provide access to information to the 44918  
auditor of state acting pursuant to Chapter 117. or sections 44919  
5101.181 and 5101.182 of the Revised Code and to any other 44920  
government entity authorized by ~~or~~ federal law to conduct an audit 44921  
of or similar activity involving a public assistance program. 44922

(F) The auditor of state shall prepare an annual report on 44923  
the outcome of the agreements required under division (A) of this 44924  
section. The report shall include the number of fugitive felons 44925  
and probation and parole violators apprehended during the 44926

immediately preceding year as a result of the exchange of 44927  
information pursuant to that division. The auditor of state shall 44928  
file the report with the governor, the president and minority 44929  
leader of the senate, and the speaker and minority leader of the 44930  
house of representatives. The state department, county agencies, 44931  
and law enforcement agencies shall cooperate with the auditor of 44932  
state's office in gathering the information required under this 44933  
division. 44934

(G) To the extent permitted by federal law, the department of 44935  
job and family services, county departments of job and family 44936  
services, and employees of the departments may report to a public 44937  
children services agency or other appropriate agency information 44938  
on known or suspected physical or mental injury, sexual abuse or 44939  
exploitation, or negligent treatment or maltreatment, of a child 44940  
receiving public assistance, if circumstances indicate that the 44941  
child's health or welfare is threatened. 44942

**Sec. 5101.35.** (A) As used in this section: 44943

(1) "Agency" means the following entities that administer a 44944  
family services program: 44945

(a) The department of job and family services; 44946

(b) A county department of job and family services; 44947

(c) A public children services agency; 44948

(d) A private or government entity administering, in whole or 44949  
in part, a family services program for or on behalf of the 44950  
department of job and family services or a county department of 44951  
job and family services or public children services agency. 44952

(2) "Appellant" means an applicant, participant, former 44953  
participant, recipient, or former recipient of a family services 44954  
program who is entitled by federal or state law to a hearing 44955  
regarding a decision or order of the agency that administers the 44956



program. 44957

(3) "Family services program" means assistance provided under 44958  
a Title IV-A program as defined in section 5101.80 of the Revised 44959  
Code or under Chapter 5104., 5111., or 5115. or section 173.35, 44960  
5101.141, 5101.46, 5101.54, 5153.163, or 5153.165 of the Revised 44961  
Code, other than assistance provided under section 5101.46 of the 44962  
Revised Code by the department of mental health, the department of 44963  
mental retardation and developmental disabilities, a board of 44964  
alcohol, drug addiction, and mental health services, or a county 44965  
board of mental retardation and developmental disabilities. 44966

(B) Except as provided ~~in~~ by division (G) of this section, an 44967  
appellant who appeals under federal or state law a decision or 44968  
order of an agency administering a family services program shall, 44969  
at the appellant's request, be granted a state hearing by the 44970  
department of job and family services. This state hearing shall be 44971  
conducted in accordance with rules adopted under this section. The 44972  
state hearing shall be tape-recorded, but neither the recording 44973  
nor a transcript of the recording shall be part of the official 44974  
record of the proceeding. A state hearing decision is binding upon 44975  
the agency and department, unless it is reversed or modified on 44976  
appeal to the director of job and family services or a court of 44977  
common pleas. 44978

(C) Except as provided by division (G) of this section, an 44979  
appellant who disagrees with a state hearing decision may make an 44980  
administrative appeal to the director of job and family services 44981  
in accordance with rules adopted under this section. This 44982  
administrative appeal does not require a hearing, but the director 44983  
or the director's designee shall review the state hearing decision 44984  
and previous administrative action and may affirm, modify, remand, 44985  
or reverse the state hearing decision. Any person designated to 44986  
make an administrative appeal decision on behalf of the director 44987  
shall have been admitted to the practice of law in this state. An 44988

administrative appeal decision is the final decision of the 44989  
department and is binding upon the department and agency, unless 44990  
it is reversed or modified on appeal to the court of common pleas. 44991

(D) An agency shall comply with a decision issued pursuant to 44992  
division (B) or (C) of this section within the time limits 44993  
established by rules adopted under this section. If a county 44994  
department of job and family services or a public children 44995  
services agency fails to comply within these time limits, the 44996  
department may take action pursuant to section 5101.24 of the 44997  
Revised Code. If another agency fails to comply within the time 44998  
limits, the department may force compliance by withholding funds 44999  
due the agency or imposing another sanction established by rules 45000  
adopted under this section. 45001

(E) An appellant who disagrees with an administrative appeal 45002  
decision of the director of job and family services or the 45003  
director's designee issued under division (C) of this section may 45004  
appeal from the decision to the court of common pleas pursuant to 45005  
section 119.12 of the Revised Code. The appeal shall be governed 45006  
by section 119.12 of the Revised Code except that: 45007

(1) The person may appeal to the court of common pleas of the 45008  
county in which the person resides, or to the court of common 45009  
pleas of Franklin county if the person does not reside in this 45010  
state. 45011

(2) The person may apply to the court for designation as an 45012  
indigent and, if the court grants this application, the appellant 45013  
shall not be required to furnish the costs of the appeal. 45014

(3) The appellant shall mail the notice of appeal to the 45015  
department of job and family services and file notice of appeal 45016  
with the court within thirty days after the department mails the 45017  
administrative appeal decision to the appellant. For good cause 45018  
shown, the court may extend the time for mailing and filing notice 45019

of appeal, but such time shall not exceed six months from the date 45020  
the department mails the administrative appeal decision. Filing 45021  
notice of appeal with the court shall be the only act necessary to 45022  
vest jurisdiction in the court. 45023

(4) The department shall be required to file a transcript of 45024  
the testimony of the state hearing with the court only if the 45025  
court orders the department to file the transcript. The court 45026  
shall make such an order only if it finds that the department and 45027  
the appellant are unable to stipulate to the facts of the case and 45028  
that the transcript is essential to a determination of the appeal. 45029  
The department shall file the transcript not later than thirty 45030  
days after the day such an order is issued. 45031

(5) Section 119.092 of the Revised Code does not apply to the 45032  
appeal. 45033

(F) The department of job and family services shall adopt 45034  
rules in accordance with Chapter 119. of the Revised Code to 45035  
implement this section, including rules governing the following: 45036

(1) State hearings under division (B) of this section. The 45037  
rules shall include provisions regarding notice of eligibility 45038  
termination and the opportunity of an appellant appealing a 45039  
decision or order of a county department of job and family 45040  
services to request a county conference with the county department 45041  
before the state hearing is held. 45042

(2) Administrative appeals under division (C) of this 45043  
section; 45044

(3) Time limits for complying with a decision issued under 45045  
division (B) or (C) of this section; 45046

(4) Sanctions that may be applied against an agency under 45047  
division (D) of this section. 45048

(G) The department of job and family services may adopt rules 45049

in accordance with Chapter 119. of the Revised Code establishing 45050  
~~in~~ an appeals process for an appellant who appeals a decision or 45051  
order regarding a Title IV-A program identified under division 45052  
(A)(3)(c) or (d) of section 5101.80 of the Revised Code that is 45053  
different from the appeals process established by this section. 45054  
The different appeals process may include having a state agency 45055  
that administers the Title IV-A program pursuant to an interagency 45056  
agreement entered into under section 5101.801 of the Revised Code 45057  
administer the appeals process. 45058

(H) The requirements of Chapter 119. of the Revised Code 45059  
apply to a state hearing or administrative appeal under this 45060  
section only to the extent, if any, specifically provided by rules 45061  
adopted under this section. 45062

**Sec. 5101.36.** Any application for public assistance gives a 45063  
right of subrogation to the department of job and family services 45064  
for any workers' compensation benefits payable to a person who is 45065  
subject to a support order, as defined in section 3119.01 of the 45066  
Revised Code, on behalf of the applicant, to the extent of any 45067  
public assistance payments made on the applicant's behalf. If the 45068  
director of job and family services, in consultation with a child 45069  
support enforcement agency and the administrator of the bureau of 45070  
workers' compensation, determines that a person responsible for 45071  
support payments to a recipient of public assistance is receiving 45072  
workers' compensation, the director shall notify the administrator 45073  
of the amount of the benefit to be paid to the department of job 45074  
and family services. 45075

For purposes of this section, "public assistance" means 45076  
medical assistance provided through the medical assistance program 45077  
established under section 5111.01 of the Revised Code; Ohio works 45078  
first provided under Chapter 5107. of the Revised Code; 45079  
prevention, retention, and contingency benefits and services 45080

provided under Chapter 5108. of the Revised Code; ~~or~~ disability 45081  
financial assistance provided under Chapter 5115. of the Revised 45082  
Code; or disability medical assistance provided under Chapter 45083  
5115. of the Revised Code. 45084

**Sec. 5101.58.** As used in this section and section 5101.59 of 45085  
the Revised Code, "public assistance" means aid provided under 45086  
Chapter 5111. or 5115. of the Revised Code and participation in 45087  
the Ohio works first program established under Chapter 5107. of 45088  
the Revised Code. 45089

The acceptance of public assistance gives a right of recovery 45090  
to the department of job and family services and a county 45091  
department of job and family services against the liability of a 45092  
third party for the cost of medical services and care arising out 45093  
of injury, disease, or disability of the public assistance 45094  
recipient or participant. When an action or claim is brought 45095  
against a third party by a public assistance recipient or 45096  
participant, the entire amount of any settlement or compromise of 45097  
the action or claim, or any court award or judgment, is subject to 45098  
the recovery right of the department of job and family services or 45099  
county department of job and family services. Except in the case 45100  
of a recipient or participant who receives medical services or 45101  
care through a managed care organization, the department's or 45102  
county department's claim shall not exceed the amount of medical 45103  
expenses paid by the departments on behalf of the recipient or 45104  
participant. In the case of a recipient or participant who 45105  
receives medical services or care through a managed care 45106  
organization, the amount of the department's or county 45107  
department's claim shall be the amount the managed care 45108  
organization pays for medical services or care rendered to the 45109  
recipient or participant, even if that amount is more than the 45110  
amount the departments pay to the managed care organization for 45111  
the recipient's or participant's medical services or care. Any 45112

settlement, compromise, judgment, or award that excludes the cost 45113  
of medical services or care shall not preclude the departments 45114  
from enforcing their rights under this section. 45115

Prior to initiating any recovery action, the recipient or 45116  
participant, or the recipient's or participant's representative, 45117  
shall disclose the identity of any third party against whom the 45118  
recipient or participant has or may have a right of recovery. 45119  
Disclosure shall be made to the department of job and family 45120  
services when medical expenses have been paid pursuant to Chapter 45121  
5111. or 5115. of the Revised Code. Disclosure shall be made to 45122  
both the department of job and family services and the appropriate 45123  
county department of job and family services when medical expenses 45124  
have been paid pursuant to Chapter 5115. of the Revised Code. No 45125  
settlement, compromise, judgment, or award or any recovery in any 45126  
action or claim by a recipient or participant where the 45127  
departments have a right of recovery shall be made final without 45128  
first giving the appropriate departments notice and a reasonable 45129  
opportunity to perfect their rights of recovery. If the 45130  
departments are not given appropriate notice, the recipient or 45131  
participant is liable to reimburse the departments for the 45132  
recovery received to the extent of medical payments made by the 45133  
departments. The departments shall be permitted to enforce their 45134  
recovery rights against the third party even though they accepted 45135  
prior payments in discharge of their rights under this section if, 45136  
at the time the departments received such payments, they were not 45137  
aware that additional medical expenses had been incurred but had 45138  
not yet been paid by the departments. The third party becomes 45139  
liable to the department of job and family services or county 45140  
department of job and family services as soon as the third party 45141  
is notified in writing of the valid claims for recovery under this 45142  
section. 45143

The right of recovery does not apply to that portion of any 45144

judgment, award, settlement, or compromise of a claim, to the 45145  
extent of attorneys' fees, costs, or other expenses incurred by a 45146  
recipient or participant in securing the judgment, award, 45147  
settlement, or compromise, or to the extent of medical, surgical, 45148  
and hospital expenses paid by such recipient or participant from 45149  
the recipient's or participant's own resources. Attorney fees and 45150  
costs or other expenses in securing any recovery shall not be 45151  
assessed against any claims of the departments. 45152

To enforce their recovery rights, the departments may do any 45153  
of the following: 45154

(A) Intervene or join in any action or proceeding brought by 45155  
the recipient or participant or on the recipient's or 45156  
participant's behalf against any third party who may be liable for 45157  
the cost of medical services and care arising out of the 45158  
recipient's or participant's injury, disease, or disability; 45159

(B) Institute and pursue legal proceedings against any third 45160  
party who may be liable for the cost of medical services and care 45161  
arising out of the recipient's or participant's injury, disease, 45162  
or disability; 45163

(C) Initiate legal proceedings in conjunction with the 45164  
injured, diseased, or disabled recipient or participant or the 45165  
recipient's or participant's legal representative. 45166

Recovery rights created by this section may be enforced 45167  
separately or jointly by the department of job and family services 45168  
and the county department of job and family services. 45169

The right of recovery given to the department under this 45170  
section does not include rights to support from any other person 45171  
assigned to the state under sections 5107.20 and ~~5115.13~~ 5115.07 45172  
of the Revised Code, but includes payments made by a third party 45173  
under contract with a person having a duty to support. 45174

The director of job and family services may adopt rules in 45175

accordance with Chapter 119. of the Revised Code the department 45176  
considers necessary to implement this section. 45177

**Sec. 5101.59.** (A) The application for or acceptance of public 45178  
assistance constitutes an automatic assignment of certain rights 45179  
to the department of job and family services. This assignment 45180  
includes the rights of the applicant, recipient, or participant 45181  
and also the rights of any other member of the assistance group 45182  
for whom the applicant, recipient, or participant can legally make 45183  
an assignment. 45184

Pursuant to this section, the applicant, recipient, or 45185  
participant assigns to the department any rights to medical 45186  
support available to the applicant, recipient, or participant or 45187  
for other members of the assistance group under an order of a 45188  
court or administrative agency, and any rights to payments from 45189  
any third party liable to pay for the cost of medical care and 45190  
services arising out of injury, disease, or disability of the 45191  
applicant, recipient, participant, or other members of the 45192  
assistance group. 45193

Medicare benefits shall not be assigned pursuant to this 45194  
section. Benefits assigned to the department by operation of this 45195  
section are directly reimbursable to the department by liable 45196  
third parties. 45197

(B) Refusal by the applicant, recipient, or participant to 45198  
cooperate in obtaining medical support and payments for self or 45199  
any other member of the assistance group renders the applicant, 45200  
recipient, or participant ineligible for public assistance, unless 45201  
cooperation is waived by the department. Eligibility shall 45202  
continue for any individual who cannot legally assign the 45203  
individual's own rights and who would have been eligible for 45204  
public assistance but for the refusal to assign the individual's 45205  
rights or to cooperate as required by this section by another 45206



person legally able to assign the individual's rights. 45207

If the applicant, recipient, or participant or any member of 45208  
the assistance group becomes ineligible for public assistance, the 45209  
department shall restore to the applicant, recipient, participant, 45210  
or member of the assistance group any future rights to benefits 45211  
assigned under this section. 45212

The rights of assignment given to the department under this 45213  
section do not include rights to support assigned under section 45214  
5107.20 or ~~5115.13~~ 5115.07 of the Revised Code. 45215

(C) The director of job and family services may adopt rules 45216  
in accordance with Chapter 119. of the Revised Code to implement 45217  
this section, including rules that specify what constitutes 45218  
cooperating with efforts to obtain medical support and payments 45219  
and when the cooperation requirement may be waived. 45220

**Sec. 5101.75.** (A) As used in sections 5101.75, 5101.751, 45221  
5101.752, 5101.753, and 5101.754 of the Revised Code: 45222

(1) "Alternative source of long-term care" includes a 45223  
residential care facility licensed under Chapter 3721. of the 45224  
Revised Code, an adult care facility licensed under Chapter 3722. 45225  
of the Revised Code, home and community-based services, and a 45226  
nursing home licensed under Chapter 3721. of the Revised Code that 45227  
is not a nursing facility. 45228

(2) "Medicaid" means the medical assistance program 45229  
established under Chapter 5111. of the Revised Code. 45230

(3) "Nursing facility" has the same meaning as in section 45231  
5111.20 of the Revised Code. 45232

(4) "Representative" means a person acting on behalf of an 45233  
applicant for admission to a nursing facility. A representative 45234  
may be a family member, attorney, hospital social worker, or any 45235  
other person chosen to act on behalf of an applicant. 45236

(5) "Third-party payment source" means a third-party payer as defined in section 3901.38 of the Revised Code or medicaid. 45237  
45238

(B) Effective July 1, 1994, the department of job and family services may assess a person applying or intending to apply for admission to a nursing facility who is not an applicant for or recipient of medicaid to determine whether the person is in need of nursing facility services and whether an alternative source of long-term care is more appropriate for the person in meeting the person's physical, mental, and psychosocial needs than admission to the facility to which the person has applied. 45239  
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Each assessment shall be performed by the department or an agency designated by the department under section 5101.751 of the Revised Code and shall be based on information provided by the person or the person's representative. It shall consider the person's physical, mental, and psychosocial needs and the availability and effectiveness of informal support and care. The department or designated agency shall determine the person's physical, mental, and psychosocial needs by using, to the maximum extent appropriate, information from the resident assessment instrument specified in rules adopted by the department under division (A) of section 5111.231 of the Revised Code. The department or designated agency shall also use the criteria and procedures established in rules adopted by the department under division (I) of this section. Assessments may be performed only by persons certified by the department under section 5101.752 of the Revised Code. The department or designated agency shall make a recommendation on the basis of the assessment and, not later than the time the assessment is required to be performed under division (D) of this section, give the person assessed written notice of the recommendation, which shall explain the basis for the recommendation. If the department or designated agency determines pursuant to an assessment that an alternative source of long-term 45247  
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care is more appropriate for the person than admission to the 45269  
facility to which the person has applied, the department or 45270  
designated agency shall include in the notice possible sources of 45271  
financial assistance for the alternative source of long-term care. 45272  
If the department or designated agency has been informed that the 45273  
person has a representative, it shall give the notice to the 45274  
representative. 45275

(C) A person is not required to be assessed under division 45276  
(B) of this section if any of the following apply: 45277

(1) The circumstances specified by rules adopted under 45278  
division (I) of this section exist. 45279

(2) The person is to receive care in a nursing facility under 45280  
a contract for continuing care as defined in section 173.13 of the 45281  
Revised Code. 45282

(3) The person has a contractual right to admission to a 45283  
nursing facility operated as part of a system of continuing care 45284  
in conjunction with one or more facilities that provide a less 45285  
intensive level of services, including a residential care facility 45286  
licensed under Chapter 3721. of the Revised Code, an adult-care 45287  
facility licensed under Chapter 3722. of the Revised Code, or an 45288  
independent living arrangement; 45289

(4) The person is to receive continual care in a home for the 45290  
aged exempt from taxation under section 5701.13 of the Revised 45291  
Code; 45292

(5) The person is to receive care in the nursing facility for 45293  
not more than fourteen days in order to provide temporary relief 45294  
to the person's primary caregiver and the nursing facility 45295  
notifies the department of the person's admittance not later than 45296  
twenty-four hours after admitting the person; 45297

(6) The person is to be transferred from another nursing 45298  
facility, unless the nursing facility from which or to which the 45299

person is to be transferred determines that the person's medical 45300  
condition has changed substantially since the person's admission 45301  
to the nursing facility from which the person is to be transferred 45302  
or a review is required by a third-party payment source; 45303

(7) The person is to be readmitted to a nursing facility 45304  
following a period of hospitalization, unless the hospital or 45305  
nursing facility determines that the person's medical condition 45306  
has changed substantially since the person's admission to the 45307  
hospital, or a review is required by a third-party payment source; 45308

(8) The department or designated agency fails to complete an 45309  
assessment within the time required by division (D) or (E) of this 45310  
section or determines after a partial assessment that the person 45311  
should be exempt from the assessment. 45312

(D) The department or designated agency shall perform a 45313  
complete assessment, or, if circumstances provided by rules 45314  
adopted under division (I) of this section exist, a partial 45315  
assessment, as follows: 45316

(1) In the case of a hospitalized person applying or 45317  
intending to apply to a nursing facility, not later than two 45318  
working days after the person or the person's representative is 45319  
notified that a bed is available in a nursing facility; 45320

(2) In the case of an emergency as determined in accordance 45321  
with rules adopted under division (I) of this section, not later 45322  
than one working day after the person or the person's 45323  
representative is notified that a bed is available in a nursing 45324  
facility; 45325

(3) In all other cases, not later than five calendar days 45326  
after the person or the person's representative who submits the 45327  
application is notified that a bed is available in a nursing 45328  
facility. 45329

(E) If the department or designated agency conducts a partial 45330

assessment under division (D) of this section, it shall complete 45331  
the rest of the assessment not later than one hundred eighty days 45332  
after the date the person is admitted to the nursing facility 45333  
unless the assessment entity determines the person should be 45334  
exempt from the assessment. 45335

(F) A person assessed under this section or the person's 45336  
representative may file a complaint with the department about the 45337  
assessment process. The department shall work to resolve the 45338  
complaint in accordance with rules adopted under division (I) of 45339  
this section. 45340

(G) A person is not required to seek an alternative source of 45341  
long-term care and may be admitted to or continue to reside in a 45342  
nursing facility even though an alternative source of long-term 45343  
care is available or the person is determined pursuant to an 45344  
assessment under this section not to need nursing facility 45345  
services. 45346

(H) No nursing facility ~~with~~ for which an operator has a 45347  
provider agreement with the department under section 5111.22 of 45348  
the Revised Code shall admit or retain any person, other than a 45349  
person exempt from the assessment requirement as provided by 45350  
division (C) of this section, as a resident unless the nursing 45351  
facility has received evidence that a complete or partial 45352  
assessment has been completed. 45353

(I) The director of job and family services shall adopt rules 45354  
in accordance with Chapter 119. of the Revised Code to implement 45355  
and administer this section. The rules shall include all of the 45356  
following: 45357

(1) The information a person being assessed or the person's 45358  
representative must provide to enable the department or designated 45359  
agency to do the assessment; 45360

(2) Criteria to be used to determine whether a person is in 45361

need of nursing facility services;	45362
(3) Criteria to be used to determine whether an alternative source of long-term care is appropriate for the person being assessed;	45363 45364 45365
(4) Criteria and procedures to be used to determine a person's physical, mental, and psychosocial needs;	45366 45367
(5) Criteria to be used to determine the effectiveness and continued availability of a person's current source of informal support and care;	45368 45369 45370
(6) Circumstances, in addition to those specified in division (C) of this section, under which a person is not required to be assessed;	45371 45372 45373
(7) Circumstances under which the department or designated agency may perform a partial assessment under division (D) of this section;	45374 45375 45376
(8) The method by which a situation will be determined to be an emergency for the purpose of division (D)(2) of this section;	45377 45378
(9) The method by which the department will attempt to resolve complaints filed under division (F) of this section.	45379 45380
(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:	45381 45382 45383 45384
(1) The nursing facility fails to notify the department within the required time about an admission described in division (C)(5) of this section;	45385 45386 45387
(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.	45388 45389 45390 45391

The director shall deposit all fines collected under this 45392  
division into the residents protection fund established by section 45393  
5111.62 of the Revised Code. 45394

**Sec. 5101.80.** (A) As used in this section and in section 45395  
5101.801 of the Revised Code: 45396

(1) "County family services agency" has the same meaning as 45397  
in section 307.981 of the Revised Code. 45398

(2) "State agency" has the same meaning as in section 9.82 of 45399  
the Revised Code. 45400

(3) "Title IV-A program" means all of the following that are 45401  
funded in part with funds provided under the temporary assistance 45402  
for needy families block grant established by Title IV-A of the 45403  
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as 45404  
amended: 45405

(a) The Ohio works first program established under Chapter 45406  
5107. of the Revised Code; 45407

(b) The prevention, retention, and contingency program 45408  
established under Chapter 5108. of the Revised Code; 45409

(c) A program established by the general assembly or an 45410  
executive order issued by the governor that is administered or 45411  
supervised by the department of job and family services pursuant 45412  
to section 5101.801 of the Revised Code; 45413

(d) A component of a Title IV-A program identified under 45414  
divisions (A)(3)(a) to (c) of this section that the Title IV-A 45415  
state plan prepared under division (C)(1) of this section 45416  
identifies as a component. 45417

(B) The department of job and family services shall act as 45418  
the single state agency to administer and supervise the 45419  
administration of Title IV-A programs. The Title IV-A state plan 45420

and amendments to the plan prepared under division (C) of this 45421  
section are binding on county family services agencies and state 45422  
agencies that administer a Title IV-A program. No county family 45423  
services agency or state agency administering a Title IV-A program 45424  
may establish, by rule or otherwise, a policy governing the Title 45425  
IV-A program that is inconsistent with a Title IV-A program policy 45426  
established, in rule or otherwise, by the director of job and 45427  
family services. 45428

(C) The department of job and family services shall do all of 45429  
the following: 45430

(1) Prepare and submit to the United States secretary of 45431  
health and human services a Title IV-A state plan for Title IV-A 45432  
programs; 45433

(2) Prepare and submit to the United States secretary of 45434  
health and human services amendments to the Title IV-A state plan 45435  
that the department determines necessary, including amendments 45436  
necessary to implement Title IV-A programs identified in division 45437  
(A)(3)(c) and (d) of this section; 45438

(3) Prescribe forms for applications, certificates, reports, 45439  
records, and accounts of county family services agencies and state 45440  
agencies administering a Title IV-A program, and other matters 45441  
related to Title IV-A programs; 45442

(4) Make such reports, in such form and containing such 45443  
information as the department may find necessary to assure the 45444  
correctness and verification of such reports, regarding Title IV-A 45445  
programs; 45446

(5) Require reports and information from each county family 45447  
services agency and state agency administering a Title IV-A 45448  
program as may be necessary or advisable regarding the Title IV-A 45449  
program; 45450

(6) Afford a fair hearing in accordance with section 5101.35 45451



of the Revised Code to any applicant for, or participant or former 45452  
participant of, a Title IV-A program aggrieved by a decision 45453  
regarding the program; 45454

(7) Administer and expend, pursuant to Chapters 5104., 5107., 45455  
and 5108. of the Revised Code and section 5101.801 of the Revised 45456  
Code, any sums appropriated by the general assembly for the 45457  
purpose of those chapters and section and all sums paid to the 45458  
state by the secretary of the treasury of the United States as 45459  
authorized by Title IV-A of the "Social Security Act," 110 Stat. 45460  
2113 (1996), 42 U.S.C. 601, as amended; 45461

(8) Conduct investigations and audits as are necessary 45462  
regarding Title IV-A programs; 45463

(9) Enter into reciprocal agreements with other states 45464  
relative to the provision of Ohio works first and prevention, 45465  
retention, and contingency to residents and nonresidents; 45466

(10) Contract with a private entity to conduct an independent 45467  
on-going evaluation of the Ohio works first program and the 45468  
prevention, retention, and contingency program. The contract must 45469  
require the private entity to do all of the following: 45470

(a) Examine issues of process, practice, impact, and 45471  
outcomes; 45472

(b) Study former participants of Ohio works first who have 45473  
not participated in Ohio works first for at least one year to 45474  
determine whether they are employed, the type of employment in 45475  
which they are engaged, the amount of compensation they are 45476  
receiving, whether their employer provides health insurance, 45477  
whether and how often they have received benefits or services 45478  
under the prevention, retention, and contingency program, and 45479  
whether they are successfully self sufficient; 45480

(c) Provide the department with reports at times the 45481  
department specifies. 45482

(11) Not later than January 1, 2001, and the first day of 45483  
each January and July thereafter, prepare a report containing 45484  
information on the following: 45485

(a) Individuals exhausting the time limits for participation 45486  
in Ohio works first set forth in section 5107.18 of the Revised 45487  
Code. 45488

(b) Individuals who have been exempted from the time limits 45489  
set forth in section 5107.18 of the Revised Code and the reasons 45490  
for the exemption. 45491

(12) Not later than January 1, 2001, and on a quarterly basis 45492  
thereafter until December 1, 2003, prepare, to the extent the 45493  
necessary data is available to the department, a report based on 45494  
information determined under section 5107.80 of the Revised Code 45495  
that states how many former Ohio works first participants entered 45496  
the workforce during the most recent previous quarter for which 45497  
the information is known and includes information regarding the 45498  
earnings of those former participants. The report shall include a 45499  
county-by-county breakdown and shall not contain the names or 45500  
social security numbers of former participants. 45501

(13) To the extent authorized by section 5101.801 of the 45502  
Revised Code, enter into interagency agreements with state 45503  
agencies for the administration of Title IV-A programs identified 45504  
under division (A)(3)(c) and (d) of this section. 45505

(D) The department shall provide copies of the reports it 45506  
receives under division (C)(10) of this section and prepares under 45507  
divisions (C)(11) and (12) of this section to the governor, the 45508  
president and minority leader of the senate, and the speaker and 45509  
minority leader of the house of representatives. The department 45510  
shall provide copies of the reports to any private or government 45511  
entity on request. 45512

(E) An authorized representative of the department or a 45513

county family services agency or state agency administering a 45514  
Title IV-A program shall have access to all records and 45515  
information bearing thereon for the purposes of investigations 45516  
conducted pursuant to this section. 45517

**Sec. 5101.83.** (A) As used in this section: 45518

(1) "Assistance group" has the same meaning as in ~~sections~~ 45519  
section 5107.02 ~~and 5108.01~~ of the Revised Code, except that it 45520  
also means a group provided benefits and services under the 45521  
prevention, retention, and contingency program ~~because the members~~ 45522  
~~of the group share a common need for benefits and services.~~ 45523

(2) "Fraudulent assistance" means assistance and service, 45524  
including cash assistance, provided under the Ohio works first 45525  
program established under Chapter 5107., or benefits and services 45526  
provided under the prevention, retention, and contingency program 45527  
established under Chapter 5108. of the Revised Code, to or on 45528  
behalf of an assistance group that is provided as a result of 45529  
fraud by a member of the assistance group, including an 45530  
intentional violation of the program's requirements. "Fraudulent 45531  
assistance" does not include assistance or services to or on 45532  
behalf of an assistance group that is provided as a result of an 45533  
error that is the fault of a county department of job and family 45534  
services or the state department of job and family services. 45535

(B) If a county director of job and family services 45536  
determines that an assistance group has received fraudulent 45537  
assistance, the assistance group is ineligible to participate in 45538  
the Ohio works first program or the prevention, retention, and 45539  
contingency program until a member of the assistance group repays 45540  
the cost of the fraudulent assistance. If a member repays the cost 45541  
of the fraudulent assistance and the assistance group otherwise 45542  
meets the eligibility requirements for the Ohio works first 45543  
program or the prevention, retention, and contingency program, the 45544

assistance group shall not be denied the opportunity to 45545  
participate in the program. 45546

This section does not limit the ability of a county 45547  
department of job and family services to recover erroneous 45548  
payments under section 5107.76 of the Revised Code. 45549

The state department of job and family services shall adopt 45550  
rules in accordance with Chapter 119. of the Revised Code to 45551  
implement this section. 45552

**Sec. 5101.97.** (A)(1) Not later than the ~~first~~ last day of 45553  
each July and January, the department of job and family services 45554  
shall complete a report on the characteristics of the individuals 45555  
who participate in or receive services through the programs 45556  
operated by the department and the outcomes of the individuals' 45557  
participation in or receipt of services through the programs. The 45558  
~~report~~ reports shall be for the six-month periods ending on the 45559  
last days of June and December and shall include information on 45560  
the following: 45561

(a) Work activities, developmental activities, and 45562  
alternative work activities established under sections 5107.40 to 45563  
5107.69 of the Revised Code; 45564

(b) Programs of publicly funded child day-care, as defined in 45565  
section 5104.01 of the Revised Code; 45566

(c) Child support enforcement programs; 45567

(d) Births to recipients of the medical assistance program 45568  
established under Chapter 5111. of the Revised Code. 45569

(2) Not later than the ~~first~~ last day of each July, the 45570  
department shall complete a progress report on the partnership 45571  
agreements between the director of job and family services and 45572  
boards of county commissioners under section 5101.21 of the 45573  
Revised Code. The report shall be for the twelve-month period 45574

ending on the last day of June and shall include a review of 45575  
whether the county family services agencies and workforce 45576  
development agencies satisfied performance standards included in 45577  
the agreements and whether the department provided assistance, 45578  
services, and technical support specified in the agreements to aid 45579  
the agencies in meeting the performance standards. 45580

(3) The department shall submit the reports required under 45581  
divisions (A)(1) and (2) of this section to the speaker and 45582  
minority leader of the house of representatives, the president and 45583  
minority leader of the senate, the legislative budget officer, the 45584  
director of budget and management, and each board of county 45585  
commissioners. The department shall provide copies of each report 45586  
to any person or government entity on request. 45587

In designing the format for each report, the department shall 45588  
consult with individuals, organizations, and government entities 45589  
interested in the programs operated by the department, so that the 45590  
reports are designed to enable the general assembly and the public 45591  
to evaluate the effectiveness of the programs and identify any 45592  
needs that the programs are not meeting. 45593

(B) Whenever the federal government requires that the 45594  
department submit a report on a program that is operated by the 45595  
department or is otherwise under the department's jurisdiction, 45596  
the department shall prepare and submit the report in accordance 45597  
with the federal requirements applicable to that report. To the 45598  
extent possible, the department may coordinate the preparation and 45599  
submission of a particular report with any other report, plan, or 45600  
other document required to be submitted to the federal government, 45601  
as well as with any report required to be submitted to the general 45602  
assembly. The reports required by the Personal Responsibility and 45603  
Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) may be 45604  
submitted as an annual summary. 45605

**Sec. 5103.031.** (A) Except as provided in section 5103.033 of 45606  
the Revised Code, the department of job and family services may 45607  
not issue a certificate under section 5103.03 of the Revised Code 45608  
to a foster home unless the foster caregiver successfully 45609  
completes the following amount of preplacement training through 45610  
~~the Ohio child welfare training program~~ or a preplacement training 45611  
program operated under section 5103.034 or 5153.60 of the Revised 45612  
Code: 45613

(1) If the foster home is a family foster home, at least 45614  
twelve hours; 45615

(2) If the foster home is a specialized foster home, at least 45616  
thirty-six hours. 45617

(B) No child may be placed in a family foster home unless the 45618  
foster caregiver completes at least twelve additional hours of 45619  
preplacement training through ~~the Ohio child welfare training~~ 45620  
~~program~~ or a preplacement training program operated under section 45621  
5103.034 or 5153.60 of the Revised Code. 45622

**Sec. 5103.033.** The department of job and family services may 45623  
issue or renew a certificate under section 5103.03 of the Revised 45624  
Code to a foster home for the care of a child who is in the 45625  
custody of a public children services agency or private child 45626  
placing agency pursuant to an agreement entered into under section 45627  
5103.15 of the Revised Code regarding a child who was less than 45628  
six months of age on the date the agreement was executed if the 45629  
foster caregiver successfully completes the following amount of 45630  
training: 45631

(A) For an initial certificate, at least twelve hours of 45632  
preplacement training through ~~the Ohio child welfare training~~ 45633  
~~program~~ or a preplacement training program operated under section 45634  
5103.034 or 5153.60 of the Revised Code; 45635

(B) For renewal of a certificate, at least twelve hours each 45636  
year of continuing training in accordance with the foster 45637  
caregiver's needs assessment and continuing training plan 45638  
developed and implemented under section 5103.035 of the Revised 45639  
Code. 45640

**Sec. 5103.034.** (A) A ~~public children services agency~~, private 45641  
child placing agency~~,~~ or private noncustodial agency operating a 45642  
preplacement training program or continuing training program 45643  
approved by the department of job and family services under 45644  
section 5103.038 of the Revised Code or the Ohio child welfare 45645  
training program operating a preplacement training program or 45646  
continuing training program pursuant to section 5153.60 of the 45647  
Revised Code shall make the program available to foster 45648  
caregivers. The agency or program shall make the programs 45649  
available without regard to the type of recommending agency from 45650  
which a foster caregiver seeks a recommendation ~~and without charge 45651  
to the foster caregiver.~~ 45652

(B) A private child placing agency or private noncustodial 45653  
agency operating a preplacement training program or continuing 45654  
training program approved by the department of job and family 45655  
services under section 5103.038 of the Revised Code may condition 45656  
the enrollment of a foster caregiver in a program on either or 45657  
both of the following: 45658

(1) Availability of space in the training program; 45659

(2) If applicable, payment of an instruction or registration 45660  
fee, if any, by the foster caregiver's recommending agency. 45661

(C) The Ohio child welfare training program operating a 45662  
preplacement training program or continuing training program 45663  
pursuant to section 5153.60 of the Revised Code may condition the 45664  
enrollment in a preplacement training program or continuing 45665

training program of a foster caregiver whose recommending agency 45666  
is a private child placing agency or private noncustodial agency 45667  
on either or both of the following: 45668

(1) Availability of space in the training program; 45669

(2) Assignment to the program by the foster caregiver's 45670  
recommending agency of the allowance payable under section 45671  
5103.0313 of the Revised Code. 45672

(D) A private child placing agency or private noncustodial 45673  
agency may contract with an individual or a public or private 45674  
entity to administer a preplacement training program or continuing 45675  
training program operated by the agency and approved by the 45676  
department of job and family services under section 5103.038 of 45677  
the Revised Code. 45678

**Sec. 5103.036.** For the purpose of determining whether a 45679  
foster caregiver has satisfied the requirement of section 5103.031 45680  
or 5103.032 of the Revised Code, a recommending agency shall 45681  
accept training obtained from ~~the Ohio child welfare training~~ 45682  
~~program or pursuant to~~ a preplacement training program or 45683  
continuing training program operated under section 5103.034 or 45684  
5153.60 of the Revised Code regardless of whether the program is 45685  
operated by the recommending agency ~~operated the preplacement~~ 45686  
~~training program or continuing training program.~~ The agency may 45687  
require that the foster caregiver successfully complete additional 45688  
training as a condition of the agency recommending that the 45689  
department of job and family services certify or recertify the 45690  
foster caregiver's foster home under section 5103.03 of the 45691  
Revised Code. 45692

**Sec. 5103.037.** The department of job and family services, in 45693  
consultation with the departments of youth services, mental 45694  
health, education, mental retardation and developmental 45695



disabilities, and alcohol and drug addiction services, shall 45696  
develop a model design of a preplacement training program for 45697  
foster caregivers seeking an initial certificate under section 45698  
5103.03 of the Revised Code and a model design of a continuing 45699  
training program for foster caregivers seeking renewal of a 45700  
certificate under that section. The model design of a preplacement 45701  
training program shall comply with section 5103.039 of the Revised 45702  
Code. The model design of a continuing training program shall 45703  
comply with section 5103.0310 of the Revised Code. The department 45704  
of job and family services shall make the model designs available 45705  
to ~~public children services agencies~~ the Ohio child welfare  
training program, private child placing agencies, and private 45706  
noncustodial agencies. 45707  
45708

**Sec. 5103.038.** (A) Every other year by a date specified in 45709  
rules adopted under section 5103.0316 of the Revised Code, each 45710  
~~public children services agency,~~ private child placing agency, and 45711  
private noncustodial agency that seeks to operate a preplacement 45712  
training program or continuing training program under section 45713  
5103.034 of the Revised Code shall submit to the department of job 45714  
and family services a proposal outlining the program. The proposal 45715  
may be the same as, a modification of, or different from, a model 45716  
design developed under section 5103.037 of the Revised Code. ~~The~~ 45717  
~~proposal shall include a budget for the program regarding the cost~~ 45718  
~~associated with trainers, obtaining sites at which the training is~~ 45719  
~~provided, and the administration of the training. The budget shall~~ 45720  
~~be consistent with rules adopted under section 5103.0316 of the~~ 45721  
~~Revised Code governing the department of job and family services'~~ 45722  
~~reimbursement of public children services agencies, private child~~ 45723  
~~placing agencies, and private noncustodial agencies under section~~ 45724  
~~5103.0313 of the Revised Code.~~ 45725

(B) Not later than thirty days after receiving a proposal 45726  
under division (A) of this section, the department shall either 45727

approve or disapprove the proposed program. The department shall 45728  
approve a proposed preplacement training program if it complies 45729  
with section 5103.039 or 5103.0310 of the Revised Code, as 45730  
appropriate, and, in the case of a proposal submitted by an agency 45731  
operating a preplacement training program at the time the proposal 45732  
is submitted, the department is satisfied with the agency's 45733  
operation of the program. The department shall approve a proposed 45734  
continuing training program if it complies with section 5103.0310 45735  
or 5103.0311 of the Revised Code, as appropriate, and, in the case 45736  
of a proposal submitted by an agency operating a continuing 45737  
training program at the time the proposal is submitted, the 45738  
department is satisfied with the agency's operation of the 45739  
program. ~~The department shall disapprove a proposed program if the~~ 45740  
~~program's budget is not consistent with rules adopted under~~ 45741  
~~section 5103.0316 of the Revised Code governing the department's~~ 45742  
~~reimbursement of public children services agencies, private child~~ 45743  
~~placing agencies, and private noncustodial agencies under section~~ 45744  
~~5103.0313 of the Revised Code.~~ If the department disapproves a 45745  
proposal, it shall provide the reason for disapproval to the 45746  
agency that submitted the proposal and advise the agency of how to 45747  
revise the proposal so that the department can approve it. 45748

(C) The department's approval under division (B) of this 45749  
section of a proposed preplacement training program or continuing 45750  
training program is valid only for two years following the year 45751  
the proposal for the program is submitted to the department under 45752  
division (A) of this section. 45753

**Sec. 5103.0312.** A public children services agency, private 45754  
child placing agency, or private noncustodial agency acting as a 45755  
recommending agency for foster caregivers who hold certificates 45756  
issued under section 5103.03 of the Revised Code shall pay those 45757  
foster caregivers ~~who have had at least one foster child placed in~~ 45758  
~~their home~~ a stipend to reimburse them for attending ~~training~~ 45759

~~courses provided by the Ohio child welfare training program or~~ 45760  
~~pursuant to a preplacement training program or continuing training~~ 45761  
~~program operated under section 5103.034 or 5153.60 of the Revised~~ 45762  
~~Code. The payment shall be based on a stipend rate established by~~ 45763  
~~the department of job and family services. The stipend rate shall~~ 45764  
~~be the same regardless of the type of recommending agency from~~ 45765  
~~which a foster caregiver seeks a recommendation. The department~~ 45766  
~~shall, pursuant to rules adopted under section 5103.0316 of the~~ 45767  
~~Revised Code, reimburse the recommending agency for stipend~~ 45768  
~~payments it makes in accordance with this section.~~ 45769

**Sec. 5103.0313.** The department of job and family services 45770  
shall ~~reimburse the following~~ compensate a private child placing 45771  
agency or private noncustodial agency for the cost of ~~providing~~ 45772  
procuring or operating preplacement and continuing training ~~to~~ 45773  
~~foster caregivers.~~ 45774

~~(A) The Ohio child welfare training program;~~ 45775

~~(B) A public children services agency, private child placing~~ 45776  
~~agency, or private noncustodial agency through a preplacement~~ 45777  
~~training program or continuing training program operated~~ programs 45778  
under section 5103.034 of the Revised Code for foster caregivers 45779  
who are recommended for initial certification or recertification 45780  
by the agency. 45781

The ~~reimbursement~~ compensation shall be ~~on a per diem basis~~ 45782  
and ~~limited to the cost associated with the trainer, obtaining a~~ 45783  
~~site at which the training is provided, and the administration of~~ 45784  
the training paid to the agency in the form of an allowance for 45785  
each hour of preplacement and continuing training provided or 45786  
received. A ~~reimbursement rate shall be the same regardless of~~ 45787  
~~whether the training program is operated by the Ohio child welfare~~ 45788  
~~training program or a public children services agency, private~~ 45789  
~~child placing agency, or private noncustodial agency.~~ 45790

**Sec. 5103.0314.** The department of job and family services 45791  
shall not ~~reimburse~~ compensate a recommending agency for ~~the cost~~ 45792  
~~of~~ any training the agency requires a foster caregiver to undergo 45793  
as a condition of the agency recommending the department certify 45794  
or recertify the foster caregiver's foster home under section 45795  
5103.03 of the Revised Code if the training is in addition to the 45796  
minimum training required by section 5103.031 or 5103.032 of the 45797  
Revised Code. 45798

**Sec. 5103.0315.** The department of job and family services 45799  
shall seek federal financial participation for the cost of making 45800  
payments under section 5103.0312 of the Revised Code and 45801  
~~reimbursements~~ allowances under section 5103.0313 of the Revised 45802  
Code. The department shall notify the governor, president of the 45803  
senate, minority leader of the senate, speaker of the house of 45804  
representatives, and minority leader of the house of 45805  
representatives of any proposed federal legislation that endangers 45806  
the federal financial participation. 45807

**Sec. 5103.0316.** ~~Not later than ninety days after January 1,~~ 45808  
~~2001, the~~ The department of job and family services shall adopt 45809  
rules in accordance with Chapter 119. of the Revised Code as 45810  
necessary for the efficient administration of sections 5103.031 to 45811  
5103.0316 of the Revised Code. The rules shall provide for all of 45812  
the following: 45813

(A) For the purpose of section 5103.038 of the Revised Code, 45814  
the date by which a ~~public children services agency,~~ private child 45815  
placing agency, or private noncustodial agency that seeks to 45816  
operate a preplacement training program or continuing training 45817  
program under section 5103.034 of the Revised Code must submit to 45818  
the department a proposal outlining the program; 45819

(B) Requirements governing the department's ~~reimbursement~~ 45820

~~compensation of the Ohio child welfare training program and public~~ 45821  
~~children services agencies,~~ private child placing agencies, and 45822  
private noncustodial agencies under sections 5103.0312 and 45823  
5103.0313 of the Revised Code; 45824

(C) Any other matter the department considers appropriate. 45825

**Sec. 5103.154.** (A) Information concerning all children who 45826  
are, pursuant to section 2151.353 or 5103.15 of the Revised Code, 45827  
in the permanent custody of an institution or association 45828  
certified by the department of job and family services under 45829  
section 5103.03 of the Revised Code shall be listed with the 45830  
department within ninety days after permanent custody is 45831  
effective, unless the child has been placed for adoption or unless 45832  
an application for placement was initiated under section 5103.16 45833  
of the Revised Code. 45834

(B) All persons who wish to adopt children, and are approved 45835  
by an agency so empowered under this chapter, shall be listed with 45836  
the department within ninety days of approval, unless a person 45837  
requests in writing that that person's name not be so listed, or 45838  
has had a child placed in that person's home in preparation for 45839  
adoption, or has filed a petition for adoption. 45840

(C) All persons who wish to adopt a child with special needs 45841  
as defined in rules adopted under section 5153.163 of the Revised 45842  
Code, and who are approved by an agency so empowered under this 45843  
chapter, shall be listed separately by the department within 45844  
ninety days of approval, unless a person requests in writing that 45845  
that person's name not be so listed, or has had a child with 45846  
special needs placed in that person's home in preparation for 45847  
adoption, or has filed a petition for adoption. 45848

(D) The department shall forward information on such children 45849  
and listed persons at least quarterly, to all public children 45850  
services agencies and all certified agencies. 45851

(E) The appropriate listed names shall be removed when a child is placed in an adoptive home or when a person withdraws an application for adoption.

(F) No later than six months after the end of each fiscal year, the department shall compile a report of its conclusions regarding the effectiveness of its actions pursuant to this section and of the restrictions on placement under division ~~(E)~~(G) of section 5153.163 of the Revised Code in increasing adoptive placements of children with special needs, together with its recommendations, and shall submit a copy of the report to the chairpersons of the principal committees of the senate and the house of representatives who consider welfare legislation.

Sec. 5103.155. As used in this section, "children with special needs" has the same meaning as in rules adopted under section 5153.163 of the Revised Code.

If the department of job and family services determines that money in the putative father registry fund created under section 2101.16 of the Revised Code is more than is needed to perform its duties related to the putative father registry, the department may use surplus moneys in the fund to promote adoption of children with special needs.

**Sec. 5104.01.** As used in this chapter:

(A) "Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may be the same person.

(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code.

(C) "Authorized provider" means a person authorized by a county director of job and family services to operate a certified

type B family day-care home. 45881

(D) "Border state child day-care provider" means a child 45882  
day-care provider that is located in a state bordering Ohio and 45883  
that is licensed, certified, or otherwise approved by that state 45884  
to provide child day-care. 45885

(E) "Caretaker parent" means the father or mother of a child 45886  
whose presence in the home is needed as the caretaker of the 45887  
child, a person who has legal custody of a child and whose 45888  
presence in the home is needed as the caretaker of the child, a 45889  
guardian of a child whose presence in the home is needed as the 45890  
caretaker of the child, and any other person who stands in loco 45891  
parentis with respect to the child and whose presence in the home 45892  
is needed as the caretaker of the child. 45893

(F) "Certified type B family day-care home" and "certified 45894  
type B home" mean a type B family day-care home that is certified 45895  
by the director of the county department of job and family 45896  
services pursuant to section 5104.11 of the Revised Code to 45897  
receive public funds for providing child day-care pursuant to this 45898  
chapter and any rules adopted under it. 45899

(G) "Chartered nonpublic school" means a school that meets 45900  
standards for nonpublic schools prescribed by the state board of 45901  
education for nonpublic schools pursuant to section 3301.07 of the 45902  
Revised Code. 45903

(H) "Child" includes an infant, toddler, preschool child, or 45904  
school child. 45905

(I) "Child care block grant act" means the "Child Care and 45906  
Development Block Grant Act of 1990," established in section 5082 45907  
of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 45908  
1388-236 (1990), 42 U.S.C. 9858, as amended. 45909

(J) "Child day camp" means a program in which only school 45910  
children attend or participate, that operates for no more than 45911

seven hours per day, that operates only during one or more public 45912  
school district's regular vacation periods or for no more than 45913  
fifteen weeks during the summer, and that operates outdoor 45914  
activities for each child who attends or participates in the 45915  
program for a minimum of fifty per cent of each day that children 45916  
attend or participate in the program, except for any day when 45917  
hazardous weather conditions prevent the program from operating 45918  
outdoor activities for a minimum of fifty per cent of that day. 45919  
For purposes of this division, the maximum seven hours of 45920  
operation time does not include transportation time from a child's 45921  
home to a child day camp and from a child day camp to a child's 45922  
home. 45923

(K) "Child day-care" means administering to the needs of 45924  
infants, toddlers, preschool children, and school children outside 45925  
of school hours by persons other than their parents or guardians, 45926  
custodians, or relatives by blood, marriage, or adoption for any 45927  
part of the twenty-four-hour day in a place or residence other 45928  
than a child's own home. 45929

(L) "Child day-care center" and "center" mean any place in 45930  
which child day-care or publicly funded child day-care is provided 45931  
for thirteen or more children at one time or any place that is not 45932  
the permanent residence of the licensee or administrator in which 45933  
child day-care or publicly funded child day-care is provided for 45934  
seven to twelve children at one time. In counting children for the 45935  
purposes of this division, any children under six years of age who 45936  
are related to a licensee, administrator, or employee and who are 45937  
on the premises of the center shall be counted. "Child day-care 45938  
center" and "center" do not include any of the following: 45939

(1) A place located in and operated by a hospital, as defined 45940  
in section 3727.01 of the Revised Code, in which the needs of 45941  
children are administered to, if all the children whose needs are 45942  
being administered to are monitored under the on-site supervision 45943



of a physician licensed under Chapter 4731. of the Revised Code or 45944  
a registered nurse licensed under Chapter 4723. of the Revised 45945  
Code, and the services are provided only for children who, in the 45946  
opinion of the child's parent, guardian, or custodian, are 45947  
exhibiting symptoms of a communicable disease or other illness or 45948  
are injured; 45949

(2) A child day camp; 45950

(3) A place that provides child day-care, but not publicly 45951  
funded child day-care, if all of the following apply: 45952

(a) An organized religious body provides the child day-care; 45953

(b) A parent, custodian, or guardian of at least one child 45954  
receiving child day-care is on the premises and readily accessible 45955  
at all times; 45956

(c) The child day-care is not provided for more than thirty 45957  
days a year; 45958

(d) The child day-care is provided only for preschool and 45959  
school children. 45960

(M) "Child day-care resource and referral service 45961  
organization" means a community-based nonprofit organization that 45962  
provides child day-care resource and referral services but not 45963  
child day-care. 45964

(N) "Child day-care resource and referral services" means all 45965  
of the following services: 45966

(1) Maintenance of a uniform data base of all child day-care 45967  
providers in the community that are in compliance with this 45968  
chapter, including current occupancy and vacancy data; 45969

(2) Provision of individualized consumer education to 45970  
families seeking child day-care; 45971

(3) Provision of timely referrals of available child day-care 45972  
providers to families seeking child day-care; 45973

(4) Recruitment of child day-care providers;	45974
(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;	45975 45976 45977 45978
(6) Collection and analysis of data on the supply of and demand for child day-care in the community;	45979 45980
(7) Technical assistance concerning locally, state, and federally funded child day-care and early childhood education programs;	45981 45982 45983
(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;	45984 45985 45986
(9) Provision of written educational materials to caretaker parents and informational resources to child day-care providers;	45987 45988
(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;	45989 45990 45991 45992 45993
(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.	45994 45995 45996 45997
(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.	45998 45999 46000 46001 46002
(P) "Drop-in child day-care center," "drop-in center,"	46003

"drop-in type A family day-care home," and "drop-in type A home" 46004  
mean a center or type A home that provides child day-care or 46005  
publicly funded child day-care for children on a temporary, 46006  
irregular basis. 46007

(Q) "Employee" means a person who either: 46008

(1) Receives compensation for duties performed in a child 46009  
day-care center or type A family day-care home; 46010

(2) Is assigned specific working hours or duties in a child 46011  
day-care center or type A family day-care home. 46012

(R) "Employer" means a person, firm, institution, 46013  
organization, or agency that operates a child day-care center or 46014  
type A family day-care home subject to licensure under this 46015  
chapter. 46016

(S) "Federal poverty line" means the official poverty 46017  
guideline as revised annually in accordance with section 673(2) of 46018  
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 46019  
U.S.C. 9902, as amended, for a family size equal to the size of 46020  
the family of the person whose income is being determined. 46021

(T) "Head start program" means a comprehensive child 46022  
development program that receives funds distributed under the 46023  
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 46024  
amended, or under ~~section~~ sections 3301.31 to 3301.37 of the 46025  
Revised Code. 46026

(U) "Income" means gross income, as defined in section 46027  
5107.10 of the Revised Code, less any amounts required by federal 46028  
statutes or regulations to be disregarded. 46029

(V) "Indicator checklist" means an inspection tool, used in 46030  
conjunction with an instrument-based program monitoring 46031  
information system, that contains selected licensing requirements 46032  
that are statistically reliable indicators or predictors of a 46033

child day-care center or type A family day-care home's compliance 46034  
with licensing requirements. 46035

(W) "Infant" means a child who is less than eighteen months 46036  
of age. 46037

(X) "In-home aide" means a person certified by a county 46038  
director of job and family services pursuant to section 5104.12 of 46039  
the Revised Code to provide publicly funded child day-care to a 46040  
child in a child's own home pursuant to this chapter and any rules 46041  
adopted under it. 46042

(Y) "Instrument-based program monitoring information system" 46043  
means a method to assess compliance with licensing requirements 46044  
for child day-care centers and type A family day-care homes in 46045  
which each licensing requirement is assigned a weight indicative 46046  
of the relative importance of the requirement to the health, 46047  
growth, and safety of the children that is used to develop an 46048  
indicator checklist. 46049

(Z) "License capacity" means the maximum number in each age 46050  
category of children who may be cared for in a child day-care 46051  
center or type A family day-care home at one time as determined by 46052  
the director of job and family services considering building 46053  
occupancy limits established by the department of commerce, number 46054  
of available child-care staff members, amount of available indoor 46055  
floor space and outdoor play space, and amount of available play 46056  
equipment, materials, and supplies. 46057

(AA) "Licensed preschool program" or "licensed school child 46058  
program" means a preschool program or school child program, as 46059  
defined in section 3301.52 of the Revised Code, that is licensed 46060  
by the department of education pursuant to sections 3301.52 to 46061  
3301.59 of the Revised Code. 46062

(BB) "Licensee" means the owner of a child day-care center or 46063  
type A family day-care home that is licensed pursuant to this 46064

chapter and who is responsible for ensuring its compliance with 46065  
this chapter and rules adopted pursuant to this chapter. 46066

(CC) "Operate a child day camp" means to operate, establish, 46067  
manage, conduct, or maintain a child day camp. 46068

(DD) "Owner" includes a person, as defined in section 1.59 of 46069  
the Revised Code, or government entity. 46070

(EE) "Parent cooperative child day-care center," "parent 46071  
cooperative center," "parent cooperative type A family day-care 46072  
home," and "parent cooperative type A home" mean a corporation or 46073  
association organized for providing educational services to the 46074  
children of members of the corporation or association, without 46075  
gain to the corporation or association as an entity, in which the 46076  
services of the corporation or association are provided only to 46077  
children of the members of the corporation or association, 46078  
ownership and control of the corporation or association rests 46079  
solely with the members of the corporation or association, and at 46080  
least one parent-member of the corporation or association is on 46081  
the premises of the center or type A home during its hours of 46082  
operation. 46083

(FF) "Part-time child day-care center," "part-time center," 46084  
"part-time type A family day-care home," and "part-time type A 46085  
home" mean a center or type A home that provides child day-care or 46086  
publicly funded child day-care for no more than four hours a day 46087  
for any child. 46088

(GG) "Place of worship" means a building where activities of 46089  
an organized religious group are conducted and includes the 46090  
grounds and any other buildings on the grounds used for such 46091  
activities. 46092

(HH) "Preschool child" means a child who is three years old 46093  
or older but is not a school child. 46094

(II) "Protective day-care" means publicly funded child 46095

day-care for the direct care and protection of a child to whom 46096  
either of the following applies: 46097

(1) A case plan prepared and maintained for the child 46098  
pursuant to section 2151.412 of the Revised Code indicates a need 46099  
for protective day-care and the child resides with a parent, 46100  
stepparent, guardian, or another person who stands in loco 46101  
parentis as defined in rules adopted under section 5104.38 of the 46102  
Revised Code; 46103

(2) The child and the child's caretaker either temporarily 46104  
reside in a facility providing emergency shelter for homeless 46105  
families or are determined by the county department of job and 46106  
family services to be homeless, and are otherwise ineligible for 46107  
publicly funded child day-care. 46108

(JJ) "Publicly funded child day-care" means administering to 46109  
the needs of infants, toddlers, preschool children, and school 46110  
children under age thirteen during any part of the 46111  
twenty-four-hour day by persons other than their caretaker parents 46112  
for remuneration wholly or in part with federal or state funds, 46113  
including funds available under the child care block grant act 46114  
~~funds~~ Title IV-A, and Title XX, distributed by the department of 46115  
job and family services. 46116

(KK) "Religious activities" means any of the following: 46117  
worship or other religious services; religious instruction; Sunday 46118  
school classes or other religious classes conducted during or 46119  
prior to worship or other religious services; youth or adult 46120  
fellowship activities; choir or other musical group practices or 46121  
programs; meals; festivals; or meetings conducted by an organized 46122  
religious group. 46123

(LL) "School child" means a child who is enrolled in or is 46124  
eligible to be enrolled in a grade of kindergarten or above but is 46125  
less than fifteen years old. 46126

(MM) "School child day-care center," "school child center," 46127  
"school child type A family day-care home," and "school child type 46128  
A family home" mean a center or type A home that provides child 46129  
day-care for school children only and that does either or both of 46130  
the following: 46131

(1) Operates only during that part of the day that 46132  
immediately precedes or follows the public school day of the 46133  
school district in which the center or type A home is located; 46134

(2) Operates only when the public schools in the school 46135  
district in which the center or type A home is located are not 46136  
open for instruction with pupils in attendance. 46137

(NN) "State median income" means the state median income 46138  
calculated by the department of development pursuant to division 46139  
(A)(1)(g) of section 5709.61 of the Revised Code. 46140

(OO) "Title IV-A" means Title IV-A of the "Social Security 46141  
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 46142

(PP) "Title XX" means Title XX of the "Social Security Act," 46143  
88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 46144

(QQ) "Toddler" means a child who is at least eighteen months 46145  
of age but less than three years of age. 46146

~~(PP)~~(RR) "Type A family day-care home" and "type A home" mean 46147  
a permanent residence of the administrator in which child day-care 46148  
or publicly funded child day-care is provided for seven to twelve 46149  
children at one time or a permanent residence of the administrator 46150  
in which child day-care is provided for four to twelve children at 46151  
one time if four or more children at one time are under two years 46152  
of age. In counting children for the purposes of this division, 46153  
any children under six years of age who are related to a licensee, 46154  
administrator, or employee and who are on the premises of the type 46155  
A home shall be counted. "Type A family day-care home" does not 46156

include a residence in which the needs of children are 46157  
administered to, if all of the children whose needs are being 46158  
administered to are siblings of the same immediate family and the 46159  
residence is the home of the siblings. "Type A family day-care 46160  
home" and "type A home" do not include any child day camp. 46161

~~(QQ)~~(SS) "Type B family day-care home" and "type B home" mean 46162  
a permanent residence of the provider in which child day-care is 46163  
provided for one to six children at one time and in which no more 46164  
than three children are under two years of age at one time. In 46165  
counting children for the purposes of this division, any children 46166  
under six years of age who are related to the provider and who are 46167  
on the premises of the type B home shall be counted. "Type B 46168  
family day-care home" does not include a residence in which the 46169  
needs of children are administered to, if all of the children 46170  
whose needs are being administered to are siblings of the same 46171  
immediate family and the residence is the home of the siblings. 46172  
"Type B family day-care home" and "type B home" do not include any 46173  
child day camp. 46174

**Sec. 5104.011.** (A) The director of job and family services 46175  
shall adopt rules pursuant to Chapter 119. of the Revised Code 46176  
governing the operation of child day-care centers, including, but 46177  
not limited to, parent cooperative centers, part-time centers, 46178  
drop-in centers, and school child centers, which rules shall 46179  
reflect the various forms of child day-care and the needs of 46180  
children receiving child day-care or publicly funded child 46181  
day-care and, ~~no later than January 1, 1992,~~ shall include 46182  
specific rules for school child day-care centers that are 46183  
developed in consultation with the department of education. The 46184  
rules shall not require an existing school facility that is in 46185  
compliance with applicable building codes to undergo an additional 46186  
building code inspection or to have structural modifications. The 46187  
rules shall include the following: 46188



(1) Submission of a site plan and descriptive plan of operation to demonstrate how the center proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(2) Standards for ensuring that the physical surroundings of the center are safe and sanitary including, but not limited to, the physical environment, the physical plant, and the equipment of the center;

(3) Standards for the supervision, care, and discipline of children receiving child day-care or publicly funded child day-care in the center;

(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. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child day-care centers owned and operated by churches and does include methods of disciplining children at child day-care centers.

(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 center and methods for ensuring that the rights of children,

parents, and employees are protected and that responsibilities of	46220
parents and employees are met;	46221
(7) Procedures for ensuring the safety and adequate	46222
supervision of children traveling off the premises of the center	46223
while under the care of a center employee;	46224
(8) Procedures for record keeping, organization, and	46225
administration;	46226
(9) Procedures for issuing, renewing, denying, and revoking a	46227
license that are not otherwise provided for in Chapter 119. of the	46228
Revised Code;	46229
(10) Inspection procedures;	46230
(11) Procedures and standards for setting initial and renewal	46231
license application fees;	46232
(12) Procedures for receiving, recording, and responding to	46233
complaints about centers;	46234
(13) Procedures for enforcing section 5104.04 of the Revised	46235
Code;	46236
(14) A standard requiring the inclusion, on and after July 1,	46237
1987, of a current department of job and family services toll-free	46238
telephone number on each center provisional license or license	46239
which any person may use to report a suspected violation by the	46240
center of this chapter or rules adopted pursuant to this chapter;	46241
(15) Requirements for the training of administrators and	46242
child-care staff members in first aid, in prevention, recognition,	46243
and management of communicable diseases, and in child abuse	46244
recognition and prevention. Training requirements for child	46245
day-care centers adopted under this division shall be consistent	46246
with divisions (B)(6) and (C)(1) of this section.	46247
(16) Procedures to be used by licensees for checking the	46248
references of potential employees of centers and procedures to be	46249

used by the director for checking the references of applicants for licenses to operate centers; 46250  
46251

(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 center; 46252  
46253  
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(18) Any other procedures and standards necessary to carry out this chapter. 46256  
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(B)(1) The child day-care center shall have, for each child for whom the center is licensed, at least thirty-five square feet of usable indoor floor space wall-to-wall regularly available for the child day-care operation exclusive of any parts of the structure in which the care of children is prohibited by law or by rules adopted by the board of building standards. The minimum of thirty-five square feet of usable indoor floor space shall not include hallways, kitchens, storage areas, or any other areas that are not available for the care of children, as determined by the director, in meeting the space requirement of this division, and bathrooms shall be counted in determining square footage only if they are used exclusively by children enrolled in the center, except that the exclusion of hallways, kitchens, storage areas, bathrooms not used exclusively by children enrolled in the center, and any other areas not available for the care of children from the minimum of thirty-five square feet of usable indoor floor space shall not apply to: 46258  
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(a) Centers licensed prior to or on September 1, 1986, that continue under licensure after that date; 46275  
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(b) Centers licensed prior to or on September 1, 1986, that are issued a new license after that date solely due to a change of ownership of the center. 46277  
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(2) The child day-care center shall have on the site a safe 46280

outdoor play space which is enclosed by a fence or otherwise 46281  
protected from traffic or other hazards. The play space shall 46282  
contain not less than sixty square feet per child using such space 46283  
at any one time, and shall provide an opportunity for supervised 46284  
outdoor play each day in suitable weather. The director may exempt 46285  
a center from the requirement of this division, if an outdoor play 46286  
space is not available and if all of the following are met: 46287

(a) The center provides an indoor recreation area that has 46288  
not less than sixty square feet per child using the space at any 46289  
one time, that has a minimum of one thousand four hundred forty 46290  
square feet of space, and that is separate from the indoor space 46291  
required under division (B)(1) of this section. 46292

(b) The director has determined that there is regularly 46293  
available and scheduled for use a conveniently accessible and safe 46294  
park, playground, or similar outdoor play area for play or 46295  
recreation. 46296

(c) The children are closely supervised during play and while 46297  
traveling to and from the area. 46298

The director also shall exempt from the requirement of this 46299  
division a child day-care center that was licensed prior to 46300  
September 1, 1986, if the center received approval from the 46301  
director prior to September 1, 1986, to use a park, playground, or 46302  
similar area, not connected with the center, for play or 46303  
recreation in lieu of the outdoor space requirements of this 46304  
section and if the children are closely supervised both during 46305  
play and while traveling to and from the area and except if the 46306  
director determines upon investigation and inspection pursuant to 46307  
section 5104.04 of the Revised Code and rules adopted pursuant to 46308  
that section that the park, playground, or similar area, as well 46309  
as access to and from the area, is unsafe for the children. 46310

(3) The child day-care center shall have at least two 46311

responsible adults available on the premises at all times when 46312  
seven or more children are in the center. The center shall 46313  
organize the children in the center in small groups, shall provide 46314  
child-care staff to give continuity of care and supervision to the 46315  
children on a day-by-day basis, and shall ensure that no child is 46316  
left alone or unsupervised. Except as otherwise provided in 46317  
division (E) of this section, the maximum number of children per 46318  
child-care staff member and maximum group size, by age category of 46319  
children, are as follows: 46320

	Maximum Number of		
	Children Per	Maximum	
Age Category	Child-Care	Group	
of Children	Staff Member	Size	
(a) Infants:			46325
(i) Less than twelve			46326
months old	5:1, or		46327
	12:2 if two		46328
	child-care		46329
	staff members		46330
	are in the room	12	46331
(ii) At least twelve			46332
months old, but			46333
less than eighteen			46334
months old	6:1	12	46335
(b) Toddlers:			46336
(i) At least eighteen			46337
months old, but			46338
less than thirty			46339
months old	7:1	14	46340
(ii) At least thirty months			46341
old, but less than			46342
three years old	8:1	16	46343
(c) Preschool			46344

children:			46345
(i) Three years old	12:1	24	46346
(ii) Four years old and			46347
five years old who			46348
are not school			46349
children	14:1	28	46350
(d) School children:			46351
(i) A child who is			46352
enrolled in or is			46353
eligible to be			46354
enrolled in a grade			46355
of kindergarten			46356
or above, but			46357
is less than			46358
eleven years old	18:1	36	46359
(ii) Eleven through fourteen			46360
years old	20:1	40	46361
Except as otherwise provided in division (E) of this section,			46362
the maximum number of children per child-care staff member and			46363
maximum group size requirements of the younger age group shall			46364
apply when age groups are combined.			46365
(4)(a) The child day-care center administrator shall show the			46366
director both of the following:			46367
(i) Evidence of at least high school graduation or			46368
certification of high school equivalency by the state board of			46369
education or the appropriate agency of another state;			46370
(ii) Evidence of having completed at least two years of			46371
training in an accredited college, university, or technical			46372
college, including courses in child development or early childhood			46373
education, or at least two years of experience in supervising and			46374
giving daily care to children attending an organized group			46375
program.			46376

(b) In addition to the requirements of division (B)(4)(a) of this section, any administrator employed or designated on or after September 1, 1986, shall show evidence of, and any administrator employed or designated prior to September 1, 1986, shall show evidence within six years after such date of, at least one of the following:

(i) Two years of experience working as a child-care staff member in a center 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 center and who has been promoted to or designated as administrator of that center shall have one year from the time the person was promoted to or designated as administrator to complete the required four courses;

(ii) Two years of training, including at least four courses in child development or early childhood education from an accredited college, university, or technical college;

(iii) A child development associate credential issued by the national child development associate credentialing commission;

(iv) An associate or higher degree in child development or early childhood education from an accredited college, technical college, or university, or a license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education.

(5) All child-care staff members of a child day-care center shall be at least eighteen years of age, and shall furnish the director 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 or evidence of completion of a training program approved by the department of

job and family services or state board of education, except as 46408  
follows: 46409

(a) A child-care staff member may be less than eighteen years 46410  
of age if the staff member is either of the following: 46411

(i) A graduate of a two-year vocational child-care training 46412  
program approved by the state board of education; 46413

(ii) A student enrolled in the second year of a vocational 46414  
child-care training program approved by the state board of 46415  
education which leads to high school graduation, provided that the 46416  
student performs the student's duties in the child day-care center 46417  
under the continuous supervision of an experienced child-care 46418  
staff member, receives periodic supervision from the vocational 46419  
child-care training program teacher-coordinator in the student's 46420  
high school, and meets all other requirements of this chapter and 46421  
rules adopted pursuant to this chapter. 46422

(b) A child-care staff member shall be exempt from the 46423  
educational requirements of this division if the staff member: 46424

(i) Prior to January 1, 1972, was employed or designated by a 46425  
child day-care center and has been continuously employed since 46426  
either by the same child day-care center employer or at the same 46427  
child day-care center; or 46428

(ii) Is a student enrolled in the second year of a vocational 46429  
child-care training program approved by the state board of 46430  
education which leads to high school graduation, provided that the 46431  
student performs the student's duties in the child day-care center 46432  
under the continuous supervision of an experienced child-care 46433  
staff member, receives periodic supervision from the vocational 46434  
child-care training program teacher-coordinator in the student's 46435  
high school, and meets all other requirements of this chapter and 46436  
rules adopted pursuant to this chapter. 46437

(6) Every child day-care staff member of a child day-care 46438



center annually shall complete fifteen hours of inservice training 46439  
in child development or early childhood education, child abuse 46440  
recognition and prevention, first aid, and in prevention, 46441  
recognition, and management of communicable diseases, until a 46442  
total of forty-five hours of training has been completed, unless 46443  
the staff member furnishes one of the following to the director: 46444

(a) Evidence of an associate or higher degree in child 46445  
development or early childhood education from an accredited 46446  
college, university, or technical college; 46447

(b) A license designated for teaching in an associate 46448  
teaching position in a preschool setting issued by the state board 46449  
of education; 46450

(c) Evidence of a child development associate credential; 46451

(d) Evidence of a preprimary credential from the American 46452  
Montessori society or the association Montessori international. 46453  
For the purposes of division (B)(6) of this section, "hour" means 46454  
sixty minutes. 46455

(7) The administrator of each child day-care center shall 46456  
prepare at least once annually and for each group of children at 46457  
the center a roster of names and telephone numbers of parents, 46458  
custodians, or guardians of each group of children attending the 46459  
center and upon request shall furnish the roster for each group to 46460  
the parents, custodians, or guardians of the children in that 46461  
group. The administrator may prepare a roster of names and 46462  
telephone numbers of all parents, custodians, or guardians of 46463  
children attending the center and upon request shall furnish the 46464  
roster to the parents, custodians, or guardians of the children 46465  
who attend the center. The administrator shall not include in any 46466  
roster the name or telephone number of any parent, custodian, or 46467  
guardian who requests the administrator not to include the 46468  
parent's, custodian's, or guardian's name or number and shall not 46469

furnish any roster to any person other than a parent, custodian, 46470  
or guardian of a child who attends the center. 46471

(C)(1) Each child day-care center shall have on the center 46472  
premises and readily available at all times at least one 46473  
child-care staff member who has completed a course in first aid 46474  
and in prevention, recognition, and management of communicable 46475  
diseases which is approved by the state department of health and a 46476  
staff member who has completed a course in child abuse recognition 46477  
and prevention training which is approved by the department of job 46478  
and family services. 46479

(2) The administrator of each child day-care center shall 46480  
maintain enrollment, health, and attendance records for all 46481  
children attending the center and health and employment records 46482  
for all center employees. The records shall be confidential, 46483  
except as otherwise provided in division (B)(7) of this section 46484  
and except that they shall be disclosed by the administrator to 46485  
the director upon request for the purpose of administering and 46486  
enforcing this chapter and rules adopted pursuant to this chapter. 46487  
Neither the center nor the licensee, administrator, or employees 46488  
of the center shall be civilly or criminally liable in damages or 46489  
otherwise for records disclosed to the director by the 46490  
administrator pursuant to this division. It shall be a defense to 46491  
any civil or criminal charge based upon records disclosed by the 46492  
administrator to the director that the records were disclosed 46493  
pursuant to this division. 46494

(3)(a) Any parent who is the residential parent and legal 46495  
custodian of a child enrolled in a child day-care center and any 46496  
custodian or guardian of such a child shall be permitted unlimited 46497  
access to the center during its hours of operation for the 46498  
purposes of contacting their children, evaluating the care 46499  
provided by the center, evaluating the premises of the center, or 46500  
for other purposes approved by the director. A parent of a child 46501

enrolled in a child day-care center who is not the child's residential parent shall be permitted unlimited access to the center during its hours of operation for those purposes under the same terms and conditions under which the residential parent of that child is permitted access to the center for those purposes. However, the access of the parent who is not the residential parent is subject to any agreement between the parents and, to the extent described in division (C)(3)(b) of this section, is subject to any terms and conditions limiting the right of access of the parent who is not the residential parent, as described in division (I) of section 3109.051 of the Revised Code, that are contained in a parenting time order or decree issued under that section, section 3109.12 of the Revised Code, or any other provision of the Revised Code.

(b) If a parent who is the residential parent of a child has presented the administrator or the administrator's designee with a copy of a parenting time order that limits the terms and conditions under which the parent who is not the residential parent is to have access to the center, as described in division (I) of section 3109.051 of the Revised Code, the parent who is not the residential parent shall be provided access to the center only to the extent authorized in the order. If the residential parent has presented such an order, the parent who is not the residential parent shall be permitted access to the center only in accordance with the most recent order that has been presented to the administrator or the administrator's designee by the residential parent or the parent who is not the residential parent.

(c) Upon entering the premises pursuant to division (C)(3)(a) or (b) of this section, the parent who is the residential parent and legal custodian, the parent who is not the residential parent, or the custodian or guardian shall notify the administrator or the administrator's designee of the parent's, custodian's, or

guardian's presence. 46534

(D) The director of job and family services, in addition to 46535  
the rules adopted under division (A) of this section, shall adopt 46536  
rules establishing minimum requirements for child day-care 46537  
centers. The rules shall include, but not be limited to, the 46538  
requirements set forth in divisions (B) and (C) of this section. 46539  
Except as provided in section 5104.07 of the Revised Code, the 46540  
rules shall not change the square footage requirements of division 46541  
(B)(1) or (2) of this section; the maximum number of children per 46542  
child-care staff member and maximum group size requirements of 46543  
division (B)(3) of this section; the educational and experience 46544  
requirements of division (B)(4) of this section; the age, 46545  
educational, and experience requirements of division (B)(5) of 46546  
this section; the number of inservice training hours required 46547  
under division (B)(6) of this section; or the requirement for at 46548  
least annual preparation of a roster for each group of children of 46549  
names and telephone numbers of parents, custodians, or guardians 46550  
of each group of children attending the center that must be 46551  
furnished upon request to any parent, custodian, or guardian of 46552  
any child in that group required under division (B)(7) of this 46553  
section; however, the rules shall provide procedures for 46554  
determining compliance with those requirements. 46555

(E)(1) When age groups are combined, the maximum number of 46556  
children per child-care staff member shall be determined by the 46557  
age of the youngest child in the group, except that when no more 46558  
than one child thirty months of age or older receives services in 46559  
a group in which all the other children are in the next older age 46560  
group, the maximum number of children per child-care staff member 46561  
and maximum group size requirements of the older age group 46562  
established under division (B)(3) of this section shall apply. 46563

(2) The maximum number of toddlers or preschool children per 46564  
child-care staff member in a room where children are napping shall 46565

be twice the maximum number of children per child-care staff member established under division (B)(3) of this section if all the following criteria are met:

(a) At least one child-care staff member is present in the room.

(b) Sufficient child-care staff members are on the child day-care center premises to meet the maximum number of children per child-care staff member requirements established under division (B)(3) of this section.

(c) Naptime preparations are complete and all napping children are resting or sleeping on cots.

(d) The maximum number established under division (E)(2) of this section is in effect for no more than one and one-half hours during a twenty-four-hour day.

(F) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family day-care homes, including, but not limited to, parent cooperative type A homes, part-time type A homes, drop-in type A homes, and school child type A homes, which shall reflect the various forms of child day-care and the needs of children receiving child day-care. The rules shall include the following:

(1) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(2) Standards for ensuring that the physical surroundings of 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;	46596 46597 46598
(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;	46599 46600 46601 46602 46603 46604
(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;	46605 46606 46607 46608 46609 46610 46611 46612
(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;	46613 46614 46615 46616
(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;	46617 46618 46619
(8) Procedures for record keeping, organization, and administration;	46620 46621
(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	46622 46623 46624
(10) Inspection procedures;	46625

(11) Procedures and standards for setting initial and renewal license application fees;	46626 46627
(12) Procedures for receiving, recording, and responding to complaints about type A homes;	46628 46629
(13) Procedures for enforcing section 5104.04 of the Revised Code;	46630 46631
(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;	46632 46633 46634 46635 46636 46637
(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;	46638 46639 46640 46641
(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;	46642 46643 46644 46645
(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;	46646 46647 46648 46649
(18) Standards for the maximum number of children per child-care staff member;	46650 46651
(19) Requirements for the amount of usable indoor floor space for each child;	46652 46653
(20) Requirements for safe outdoor play space;	46654
(21) Qualifications and training requirements for	46655

administrators and for child-care staff members; 46656

(22) Procedures for granting a parent who is the residential 46657  
parent and legal custodian, or a custodian or guardian access to 46658  
the type A home during its hours of operation; 46659

(23) Standards for the preparation and distribution of a 46660  
roster of parents, custodians, and guardians; 46661

(24) Any other procedures and standards necessary to carry 46662  
out this chapter. 46663

(G) The director of job and family services shall adopt rules 46664  
pursuant to Chapter 119. of the Revised Code governing the 46665  
certification of type B family day-care homes. 46666

(1) The rules shall include procedures, standards, and other 46667  
necessary provisions for granting limited certification to type B 46668  
family day-care homes that are operated by the following adult 46669  
providers: 46670

(a) Persons who provide child day-care for eligible children 46671  
who are great-grandchildren, grandchildren, nieces, nephews, or 46672  
siblings of the provider or for eligible children whose caretaker 46673  
parent is a grandchild, child, niece, nephew, or sibling of the 46674  
provider; 46675

(b) Persons who provide child day-care for eligible children 46676  
all of whom are the children of the same caretaker parent. 46677

The rules shall require, and shall include procedures for the 46678  
director to ensure, that type B family day-care homes that receive 46679  
a limited certification provide child day-care to children in a 46680  
safe and sanitary manner. With regard to providers who apply for 46681  
limited certification, a provider shall be granted a provisional 46682  
limited certification on signing a declaration under oath 46683  
attesting that the provider meets the standards for limited 46684  
certification. Such provisional limited certifications shall 46685



remain in effect for no more than sixty calendar days and shall 46686  
entitle the provider to offer publicly funded child day-care 46687  
during the provisional period. Except as otherwise provided in 46688  
division (G)(1) of this section, prior to the expiration of the 46689  
provisional limited certificate, a county department of job and 46690  
family services shall inspect the home and shall grant limited 46691  
certification to the provider if the provider meets the 46692  
requirements of this division. Limited certificates remain valid 46693  
for two years unless earlier revoked. Except as otherwise provided 46694  
in division (G)(1) of this section, providers operating under 46695  
limited certification shall be inspected annually. 46696

If a provider is a person described in division (G)(1)(a) of 46697  
this section or a person described in division (G)(1)(b) of this 46698  
section who is a friend of the caretaker parent, the provider and 46699  
the caretaker parent may verify in writing to the county 46700  
department of job and family services that minimum health and 46701  
safety requirements are being met in the home. If such 46702  
verification is provided, the county shall waive any inspection 46703  
and any criminal records check required by this chapter and grant 46704  
limited certification to the provider. 46705

(2) The rules shall provide for safeguarding the health, 46706  
safety, and welfare of children receiving child day-care or 46707  
publicly funded child day-care in a certified type B home and 46708  
shall include the following: 46709

(a) Standards for ensuring that the type B home and the 46710  
physical surroundings of the type B home are safe and sanitary, 46711  
including, but not limited to, physical environment, physical 46712  
plant, and equipment; 46713

(b) Standards for the supervision, care, and discipline of 46714  
children receiving child day-care or publicly funded child 46715  
day-care in the home; 46716

(c) Standards for a program of activities, and for play 46717  
equipment, materials, and supplies to enhance the development of 46718  
each child; however, any educational curricula, philosophies, and 46719  
methodologies that are developmentally appropriate and that 46720  
enhance the social, emotional, intellectual, and physical 46721  
development of each child shall be permissible; 46722

(d) Admission policies and procedures, health care, first aid 46723  
and emergency procedures, procedures for the care of sick 46724  
children, procedures for discipline and supervision of children, 46725  
nutritional standards, and procedures for screening children and 46726  
authorized providers, including, but not limited to, any necessary 46727  
physical examinations and immunizations; 46728

(e) Methods of encouraging parental participation and 46729  
ensuring that the rights of children, parents, and authorized 46730  
providers are protected and the responsibilities of parents and 46731  
authorized providers are met; 46732

(f) Standards for the safe transport of children when under 46733  
the care of authorized providers; 46734

(g) Procedures for issuing, renewing, denying, refusing to 46735  
renew, or revoking certificates; 46736

(h) Procedures for the inspection of type B family day-care 46737  
homes that require, at a minimum, that each type B family day-care 46738  
home be inspected prior to certification to ensure that the home 46739  
is safe and sanitary; 46740

(i) Procedures for record keeping and evaluation; 46741

(j) Procedures for receiving, recording, and responding to 46742  
complaints; 46743

(k) Standards providing for the special needs of children who 46744  
are handicapped or who receive treatment for health conditions 46745  
while the child is receiving child day-care or publicly funded 46746

child day-care in the type B home;	46747
(1) Requirements for the amount of usable indoor floor space for each child;	46748 46749
(m) Requirements for safe outdoor play space;	46750
(n) Qualification and training requirements for authorized providers;	46751 46752
(o) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;	46753 46754 46755
(p) Any other procedures and standards necessary to carry out this chapter.	46756 46757
(H) The director shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall include procedures, standards, and other necessary provisions for granting limited certification to in-home aides who provide child day-care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the in-home aide or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the in-home aide. The rules shall require, and shall include procedures for the director to ensure, that in-home aides that receive a limited certification provide child day-care to children in a safe and sanitary manner. The rules shall provide for safeguarding the health, safety, and welfare of children receiving publicly funded child day-care in their own home and shall include the following:	46758 46759 46760 46761 46762 46763 46764 46765 46766 46767 46768 46769 46770 46771 46772
(1) Standards for ensuring that the child's home and the physical surroundings of the child's home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;	46773 46774 46775 46776

(2) Standards for the supervision, care, and discipline of children receiving publicly funded child day-care in their own home;	46777 46778 46779
(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;	46780 46781 46782 46783 46784 46785
(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;	46786 46787 46788 46789 46790 46791
(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;	46792 46793 46794 46795
(6) Standards for the safe transport of children when under the care of in-home aides;	46796 46797
(7) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	46798 46799
(8) Procedures for inspection of homes of children receiving publicly funded child day-care in their own homes;	46800 46801
(9) Procedures for record keeping and evaluation;	46802
(10) Procedures for receiving, recording, and responding to complaints;	46803 46804
(11) Qualifications and training requirements for in-home aides;	46805 46806

(12) Standards providing for the special needs of children 46807  
who are handicapped or who receive treatment for health conditions 46808  
while the child is receiving publicly funded child day-care in the 46809  
child's own home; 46810

(13) Any other procedures and standards necessary to carry 46811  
out this chapter. 46812

(I) To the extent that any rules adopted for the purposes of 46813  
this section require a health care professional to perform a 46814  
physical examination, the rules shall include as a health care 46815  
professional a physician assistant, a clinical nurse specialist, a 46816  
certified nurse practitioner, or a certified nurse-midwife. 46817

(J)(1) The director of job and family services shall ~~send~~ 46818  
~~copies~~ do all of the following: 46819

(a) Send to each licensee notice of proposed rules to each 46820  
licensee and each county director of job and family services and 46821  
shall give governing the licensure of child day-care centers and 46822  
type A homes; 46823

(b) Give public notice of hearings regarding the rules to 46824  
each licensee ~~and each county director of job and family services~~ 46825  
at least thirty days prior to the date of the public hearing, in 46826  
accordance with section 119.03 of the Revised Code; ~~i~~ 46827

(c) Prior to the effective date of a rule, the director of 46828  
job and family services shall provide copies, in either paper or 46829  
electronic form, a copy of the adopted rule to each licensee and 46830  
each county director of job and family services. 46831

(2) The director shall do all of the following: 46832

(a) Send to each county director of job and family services a 46833  
notice of proposed rules governing the certification of type B 46834  
family homes and in-home aides that includes an internet web site 46835  
address where the proposed rules can be viewed; 46836

<u>(b) Give public notice of hearings regarding the proposed rules not less than thirty days in advance;</u>	46837
	46838
<u>(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.</u>	46839
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	46841
<u>(3) The county director of job and family services shall send copies of proposed rules to each authorized provider and in-home aide and shall give public notice of hearings regarding the rules to each authorized provider and in-home aide at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code. Prior to the effective date of a rule, the county director of job and family services shall provide copies of the adopted rule to each authorized provider and in-home aide.</u>	46842
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<u>(4) Additional copies of proposed and adopted rules shall be made available by the director of job and family services to the public on request at no charge.</u>	46851
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(K) The director of job and family services shall review all rules adopted pursuant to this chapter at least once every seven years.	46854
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	46856
(L) Notwithstanding any provision of the Revised Code, the director of job and family services shall not regulate in any way under this chapter or rules adopted pursuant to this chapter, instruction in religious or moral doctrines, beliefs, or values.	46857
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<b>Sec. 5104.02.</b> (A) The director of job and family services is responsible for the licensing of child day-care centers and type A family day-care homes, and for the enforcement of this chapter and of rules promulgated pursuant to this chapter. No person, firm, organization, institution, or agency shall operate, establish, manage, conduct, or maintain a child day-care center or type A	46861
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family day-care home without a license issued under section 46867  
5104.03 of the Revised Code. The current license shall be posted 46868  
in a conspicuous place in the center or type A home that is 46869  
accessible to parents, custodians, or guardians and employees of 46870  
the center or type A home at all times when the center or type A 46871  
home is in operation. 46872

(B) A person, firm, institution, organization, or agency 46873  
operating any of the following programs is exempt from the 46874  
requirements of this chapter: 46875

(1) A program of child day-care that operates for two or less 46876  
consecutive weeks; 46877

(2) Child day-care in places of worship during religious 46878  
activities during which children are cared for while at least one 46879  
parent, guardian, or custodian of each child is participating in 46880  
such activities and is readily available; 46881

(3) Religious activities which do not provide child day-care; 46882

(4) Supervised training, instruction, or activities of 46883  
children in specific areas, including, but not limited to: art; 46884  
drama; dance; music; gymnastics, swimming, or another athletic 46885  
skill or sport; computers; or an educational subject conducted on 46886  
an organized or periodic basis no more than one day a week and for 46887  
no more than six hours duration; 46888

(5) Programs in which the director determines that at least 46889  
one parent, custodian, or guardian of each child is on the 46890  
premises of the facility offering child day-care and is readily 46891  
accessible at all times, except that child day-care provided on 46892  
the premises at which a parent, custodian, or guardian is employed 46893  
more than two and one-half hours a day shall be licensed in 46894  
accordance with division (A) of this section; 46895

(6)(a) Programs that provide child day-care funded and 46896  
regulated or operated and regulated by state departments other 46897

than the department of job and family services or the state board 46898  
of education when the director of job and family services has 46899  
determined that the rules governing the program are equivalent to 46900  
or exceed the rules promulgated pursuant to this chapter. 46901

Notwithstanding any exemption from regulation under this 46902  
chapter, each state department shall submit to the director of job 46903  
and family services a copy of the rules that govern programs that 46904  
provide child day-care and are regulated or operated and regulated 46905  
by the department. Annually, each state department shall submit to 46906  
the director a report for each such program it regulates or 46907  
operates and regulates that includes the following information: 46908

(i) The site location of the program; 46909

(ii) The maximum number of infants, toddlers, preschool 46910  
children, or school children served by the program at one time; 46911

(iii) The number of adults providing child day-care for the 46912  
number of infants, toddlers, preschool children, or school 46913  
children; 46914

(iv) Any changes in the rules made subsequent to the time 46915  
when the rules were initially submitted to the director. 46916

The director shall maintain a record of the child day-care 46917  
information submitted by other state departments and shall provide 46918  
this information upon request to the general assembly or the 46919  
public. 46920

(b) Child day-care programs conducted by boards of education 46921  
or by chartered nonpublic schools that are conducted in school 46922  
buildings and that provide child day-care to school children only 46923  
shall be exempt from meeting or exceeding rules promulgated 46924  
pursuant to this chapter. 46925

(7) Any preschool program or school child program, except a 46926  
head start program, that is subject to licensure by the department 46927



of education under sections 3301.52 to 3301.59 of the Revised Code. 46928  
46929

(8) Any program providing child day-care that meets all of 46930  
the following requirements and, on October 20, 1987, was being 46931  
operated by a nonpublic school that holds a charter issued by the 46932  
state board of education for kindergarten only: 46933

(a) The nonpublic school has given the notice to the state 46934  
board and the director of job and family services required by 46935  
Section 4 of Substitute House Bill No. 253 of the 117th general 46936  
assembly; 46937

(b) The nonpublic school continues to be chartered by the 46938  
state board for kindergarten, or receives and continues to hold a 46939  
charter from the state board for kindergarten through grade five; 46940

(c) The program is conducted in a school building; 46941

(d) The program is operated in accordance with rules 46942  
promulgated by the state board under sections 3301.52 to 3301.57 46943  
of the Revised Code. 46944

(9) A youth development program operated outside of school 46945  
hours by a community-based center to which all of the following 46946  
apply: 46947

(a) The children enrolled in the program are under nineteen 46948  
years of age and enrolled in or eligible to be enrolled in a grade 46949  
of kindergarten or above. 46950

(b) The program provides informal child care and at least two 46951  
of the following supervised activities: educational, recreational, 46952  
culturally enriching, social, and personal development activities. 46953

(c) The state board of education has approved the program's 46954  
participation in the child and adult care food program as an 46955  
outside-school-hours care center pursuant to standards established 46956  
under section 3313.813 of the Revised Code. 46957

(d) The community-based center operating the program is 46958  
exempt from federal income taxation pursuant to 26 U.S.C. 501(a) 46959  
and (c)(3). 46960

**Sec. 5104.04.** (A) The department of job and family services 46961  
shall establish procedures to be followed in investigating, 46962  
inspecting, and licensing child day-care centers and type A family 46963  
day-care homes. 46964

(B)(1) The department shall, at least twice during every 46965  
twelve-month period of operation of a center or type A home, 46966  
inspect the center or type A home. The department shall inspect a 46967  
part-time center or part-time type A home at least once during 46968  
every twelve-month period of operation. The department shall 46969  
provide a written inspection report to the licensee within a 46970  
reasonable time after each inspection. The licensee shall display 46971  
all written reports of inspections conducted during the current 46972  
licensing period in a conspicuous place in the center or type A 46973  
home. 46974

At least one inspection shall be unannounced and all 46975  
inspections may be unannounced. No person, firm, organization, 46976  
institution, or agency shall interfere with the inspection of a 46977  
center or type A home by any state or local official engaged in 46978  
performing duties required of the state or local official by 46979  
Chapter 5104. of the Revised Code or rules adopted pursuant to 46980  
Chapter 5104. of the Revised Code, including inspecting the center 46981  
or type A home, reviewing records, or interviewing licensees, 46982  
employees, children, or parents. 46983

Upon receipt of any complaint that a center or type A home is 46984  
out of compliance with the requirements of Chapter 5104. of the 46985  
Revised Code or rules adopted pursuant to Chapter 5104. of the 46986  
Revised Code, the department shall investigate and may inspect a 46987  
center or type A home. 46988

(2) If the department implements an instrument-based program 46989  
monitoring information system, it may use an indicator checklist 46990  
to comply with division (B)(1) of this section. 46991

(3) The department shall, at least once during every 46992  
twelve-month period of operation of a center or type A home, 46993  
collect information concerning the amounts charged by the center 46994  
or home for providing child day-care services for use in 46995  
establishing rates of reimbursement and payment pursuant to 46996  
section 5104.30 of the Revised Code. 46997

(C) In the event a licensed center or type A home is 46998  
determined to be out of compliance with the requirements of 46999  
Chapter 5104. of the Revised Code or rules adopted pursuant to 47000  
Chapter 5104. of the Revised Code, the department shall notify the 47001  
licensee of the center or type A home in writing regarding the 47002  
nature of the violation, what must be done to correct the 47003  
violation, and by what date the correction must be made. If the 47004  
correction is not made by the date established by the department, 47005  
the department may commence action under Chapter 119. of the 47006  
Revised Code to revoke the license. 47007

(D) The department may deny or revoke a license, or refuse to 47008  
renew a license of a center or type A home, if the applicant 47009  
knowingly makes a false statement on the application, does not 47010  
comply with the requirements of Chapter 5104. or rules adopted 47011  
pursuant to Chapter 5104. of the Revised Code, or has pleaded 47012  
guilty to or been convicted of an offense described in section 47013  
5104.09 of the Revised Code. 47014

(E) If the department finds, after notice and hearing 47015  
pursuant to Chapter 119. of the Revised Code, that any person, 47016  
firm, organization, institution, or agency licensed under section 47017  
5104.03 of the Revised Code is in violation of any provision of 47018  
Chapter 5104. of the Revised Code or rules adopted pursuant to 47019

Chapter 5104. of the Revised Code, the department may issue an 47020  
order of revocation to the center or type A home revoking the 47021  
license previously issued by the department. Upon the issuance of 47022  
any order of revocation, the person whose license is revoked may 47023  
appeal in accordance with section 119.12 of the Revised Code. 47024

(F) The surrender of a center or type A home license to the 47025  
department or the withdrawal of an application for licensure by 47026  
the owner or administrator of the center or type A home shall not 47027  
prohibit the department from instituting any of the actions set 47028  
forth in this section. 47029

(G) Whenever the department receives a complaint, is advised, 47030  
or otherwise has any reason to believe that a center or type A 47031  
home is providing child day-care without a license issued or 47032  
renewed pursuant to section 5104.03 and is not exempt from 47033  
licensing pursuant to section 5104.02 of the Revised Code, the 47034  
department shall investigate the center or type A home and may 47035  
inspect the areas children have access to or areas necessary for 47036  
the care of children in the center or type A home during suspected 47037  
hours of operation to determine whether the center or type A home 47038  
is subject to the requirements of Chapter 5104. or rules adopted 47039  
pursuant to Chapter 5104. of the Revised Code. 47040

(H) The department, upon determining that the center or type 47041  
A home is operating without a license, shall notify the attorney 47042  
general, the prosecuting attorney of the county in which the 47043  
center or type A home is located, or the city attorney, village 47044  
solicitor, or other chief legal officer of the municipal 47045  
corporation in which the center or type A home is located, that 47046  
the center or type A home is operating without a license. Upon 47047  
receipt of the notification, the attorney general, prosecuting 47048  
attorney, city attorney, village solicitor, or other chief legal 47049  
officer of a municipal corporation shall file a complaint in the 47050  
court of common pleas of the county in which the center or type A 47051

home is located requesting that the court grant an order enjoining 47052  
the owner from operating the center or type A home. The court 47053  
shall grant such injunctive relief upon a showing that the 47054  
respondent named in the complaint is operating a center or type A 47055  
home and is doing so without a license. 47056

(I) The department shall prepare an annual report on 47057  
inspections conducted under this section. The report shall include 47058  
the number of inspections conducted, the number and types of 47059  
violations found, and the steps taken to address the violations. 47060  
The department shall file the report with the governor, the 47061  
president and minority leader of the senate, and the speaker and 47062  
minority leader of the house of representatives on or before the 47063  
first day of January of each year, beginning in 1999. 47064

**Sec. 5104.30.** (A) The department of job and family services 47065  
is hereby designated as the state agency responsible for 47066  
administration and coordination of federal and state funding for 47067  
publicly funded child day-care in this state. Publicly funded 47068  
child day-care shall be provided to the following: 47069

(1) Recipients of transitional child day-care as provided 47070  
under section 5104.34 of the Revised Code; 47071

(2) Participants in the Ohio works first program established 47072  
under Chapter 5107. of the Revised Code; 47073

(3) Individuals who would be participating in the Ohio works 47074  
first program if not for a sanction under section 5107.16 of the 47075  
Revised Code and who continue to participate in a work activity, 47076  
developmental activity, or alternative work activity pursuant to 47077  
an assignment under section 5107.42 of the Revised Code; 47078

(4) A family receiving publicly funded child day-care on 47079  
October 1, 1997, until the family's income reaches one hundred 47080  
fifty per cent of the federal poverty line; 47081

(5) Subject to available funds, other individuals determined 47082  
eligible in accordance with rules adopted under section 5104.38 of 47083  
the Revised Code. 47084

The department shall apply to the United States department of 47085  
health and human services for authority to operate a coordinated 47086  
program for publicly funded child day-care, if the director of job 47087  
and family services determines that the application is necessary. 47088  
For purposes of this section, the department of job and family 47089  
services may enter into agreements with other state agencies that 47090  
are involved in regulation or funding of child day-care. The 47091  
department shall consider the special needs of migrant workers 47092  
when it administers and coordinates publicly funded child day-care 47093  
and shall develop appropriate procedures for accommodating the 47094  
needs of migrant workers for publicly funded child day-care. 47095

(B) The department of job and family services shall 47096  
distribute state and federal funds for publicly funded child 47097  
day-care, including appropriations of state funds for publicly 47098  
funded child day-care and appropriations of federal funds ~~for~~ 47099  
~~publicly funded child day care~~ available under ~~Title XX of the~~ 47100  
~~"Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as~~ 47101  
~~amended, and the child care block grant act, Title IV-A, and Title~~ 47102  
XX. The department may use any state funds appropriated for 47103  
publicly funded child day-care as the state share required to 47104  
match any federal funds appropriated for publicly funded child 47105  
day-care. 47106

(C) ~~The department may~~ In the use of federal funds available 47107  
under the child care block grant act, all of the following apply: 47108

(1) The department may use the federal funds to hire staff to 47109  
prepare any rules required under this chapter and to administer 47110  
and coordinate federal and state funding for publicly funded child 47111  
day-care. 47112

(2) Not more than five per cent of the aggregate amount of 47113  
~~those~~ the federal funds received for a fiscal year may be expended 47114  
for administrative costs. ~~The~~ 47115

(3) ~~The~~ department shall allocate and use at least four per 47116  
cent of the federal funds for the following: 47117

~~(1)~~(a) Activities designed to provide comprehensive consumer 47118  
education to parents and the public; 47119

~~(2)~~(b) Activities that increase parental choice; 47120

~~(3)~~(c) Activities, including child day-care resource and 47121  
referral services, designed to improve the quality, and increase 47122  
the supply, of child day-care. 47123

~~(D)~~(4) The department shall ensure that ~~any~~ the federal funds 47124  
~~received by the state under the child care block grant act~~ will be 47125  
used only to supplement, and will not be used to supplant, 47126  
federal, state, and local funds available on the effective date of 47127  
~~that~~ the child care block grant act for publicly funded child 47128  
day-care and related programs. A county department of job and 47129  
family services may purchase child day-care from funds obtained 47130  
through any other means. 47131

~~(E)~~(D) The department shall encourage the development of 47132  
suitable child day-care throughout the state, especially in areas 47133  
with high concentrations of recipients of public assistance and 47134  
families with low incomes. The department shall encourage the 47135  
development of suitable child day-care designed to accommodate the 47136  
special needs of migrant workers. On request, the department, 47137  
through its employees or contracts with state or community child 47138  
day-care resource and referral service organizations, shall 47139  
provide consultation to groups and individuals interested in 47140  
developing child day-care. The department of job and family 47141  
services may enter into interagency agreements with the department 47142  
of education, the board of regents, the department of development, 47143

and other state agencies and entities whenever the cooperative 47144  
efforts of the other state agencies and entities are necessary for 47145  
the department of job and family services to fulfill its duties 47146  
and responsibilities under this chapter. 47147

The department may develop and maintain a registry of persons 47148  
providing child day-care. The director may adopt rules pursuant to 47149  
Chapter 119. of the Revised Code establishing procedures and 47150  
requirements for the registry's administration. 47151

~~(F)~~(E)(1) The director shall adopt rules in accordance with 47152  
Chapter 119. of the Revised Code establishing both of the 47153  
following: 47154

(a) Reimbursement ceilings for providers of publicly funded 47155  
child day-care; 47156

(b) A procedure for reimbursing and paying providers of 47157  
publicly funded child day-care. 47158

(2) In establishing reimbursement ceilings under division 47159  
~~(F)~~(E)(1)(a) of this section, the director shall do all of the 47160  
following: 47161

(a) Use the information obtained under division (B)(3) of 47162  
section 5104.04 of the Revised Code; 47163

(b) Establish an enhanced reimbursement ceiling for providers 47164  
who provide child day-care for caretaker parents who work 47165  
nontraditional hours; 47166

(c) For a type B family day-care home provider that has 47167  
received limited certification pursuant to rules adopted under 47168  
division (G)(1) of section 5104.011 of the Revised Code, establish 47169  
a reimbursement ceiling that is the following: 47170

(i) If the provider is a person described in division 47171  
(G)(1)(a) of section 5104.011 of the Revised Code, seventy-five 47172  
per cent of the reimbursement ceiling that applies to a type B 47173



family day-care home certified by the same county department of 47174  
job and family services pursuant to section 5104.11 of the Revised 47175  
Code; 47176

(ii) If the provider is a person described in division 47177  
(G)(1)(b) of section 5104.011 of the Revised Code, sixty per cent 47178  
of the reimbursement ceiling that applies to a type B family 47179  
day-care home certified by the same county department pursuant to 47180  
section 5104.11 of the Revised Code. 47181

(3) In establishing reimbursement ceilings under division 47182  
~~(F)~~(E)(1)(a) of this section, the director may establish different 47183  
reimbursement ceilings based on any of the following: 47184

(a) Geographic location of the provider; 47185

(b) Type of care provided; 47186

(c) Age of the child served; 47187

(d) Special needs of the child served; 47188

(e) Whether the expanded hours of service are provided; 47189

(f) Whether weekend service is provided; 47190

(g) Whether the provider has exceeded the minimum 47191  
requirements of state statutes and rules governing child day-care; 47192

(h) Any other factors the director considers appropriate. 47193

**Sec. 5104.32.** (A) Except as provided in division (C) of this 47194  
section, all purchases of publicly funded child day-care shall be 47195  
made under a contract entered into by a licensed child day-care 47196  
center, licensed type A family day-care home, certified type B 47197  
family day-care home, certified in-home aide, approved child day 47198  
camp, licensed preschool program, licensed school child program, 47199  
or border state child day-care provider and the county department 47200  
of job and family services. A county department of job and family 47201  
services may enter into a contract with a provider for publicly 47202

funded child day-care for a specified period of time or upon a 47203  
continuous basis for an unspecified period of time. All contracts 47204  
for publicly funded child day-care shall be contingent upon the 47205  
availability of state and federal funds. The department of job and 47206  
family services shall prescribe a standard form to be used for all 47207  
contracts for the purchase of publicly funded child day-care, 47208  
regardless of the source of public funds used to purchase the 47209  
child day-care. To the extent permitted by federal law and 47210  
notwithstanding any other provision of the Revised Code that 47211  
regulates state or county contracts or contracts involving the 47212  
expenditure of state, county, or federal funds, all contracts for 47213  
publicly funded child day-care shall be entered into in accordance 47214  
with the provisions of this chapter and are exempt from any other 47215  
provision of the Revised Code that regulates state or county 47216  
contracts or contracts involving the expenditure of state, county, 47217  
or federal funds. 47218

(B) Each contract for publicly funded child day-care shall 47219  
specify at least the following: 47220

(1) That the provider of publicly funded child day-care 47221  
agrees to be paid for rendering services at the lowest of the rate 47222  
customarily charged by the provider for children enrolled for 47223  
child day-care, the reimbursement ceiling or rate of payment 47224  
established pursuant to section 5104.30 of the Revised Code, or a 47225  
rate the county department negotiates with the provider; 47226

(2) That, if a provider provides child day-care to an 47227  
individual potentially eligible for publicly funded child day-care 47228  
who is subsequently determined to be eligible, the county 47229  
department agrees to pay for all child day-care provided between 47230  
the date the county department receives the individual's completed 47231  
application and the date the individual's eligibility is 47232  
determined; 47233

(3) Whether the county department of job and family services, 47234

the provider, or a child day-care resource and referral service 47235  
organization will make eligibility determinations, whether the 47236  
provider or a child day-care resource and referral service 47237  
organization will be required to collect information to be used by 47238  
the county department to make eligibility determinations, and the 47239  
time period within which the provider or child day-care resource 47240  
and referral service organization is required to complete required 47241  
eligibility determinations or to transmit to the county department 47242  
any information collected for the purpose of making eligibility 47243  
determinations; 47244

(4) That the provider, other than a border state child 47245  
day-care provider or except as provided in division (B) of section 47246  
3301.37 of the Revised Code, shall continue to be licensed, 47247  
approved, or certified pursuant to this chapter ~~or sections~~ 47248  
~~3301.52 to 3301.59 of the Revised Code~~ and shall comply with all 47249  
standards and other requirements in this chapter ~~and those~~ 47250  
~~sections~~ and in rules adopted pursuant to this chapter ~~or those~~ 47251  
~~sections~~ for maintaining the provider's license, approval, or 47252  
certification; 47253

(5) That, in the case of a border state child day-care 47254  
provider, the provider shall continue to be licensed, certified, 47255  
or otherwise approved by the state in which the provider is 47256  
located and shall comply with all standards and other requirements 47257  
established by that state for maintaining the provider's license, 47258  
certificate, or other approval; 47259

(6) Whether the provider will be paid by the county 47260  
department of job and family services or the state department of 47261  
job and family services; 47262

(7) That the contract is subject to the availability of state 47263  
and federal funds. 47264

(C) Unless specifically prohibited by federal law, the county 47265

department of job and family services shall give individuals 47266  
eligible for publicly funded child day-care the option of 47267  
obtaining certificates for payment that the individual may use to 47268  
purchase services from any provider qualified to provide publicly 47269  
funded child day-care under section 5104.31 of the Revised Code. 47270  
Providers of publicly funded child day-care may present these 47271  
certificates for payment for reimbursement in accordance with 47272  
rules that the director of job and family services shall adopt. 47273  
Only providers may receive reimbursement for certificates for 47274  
payment. The value of the certificate for payment shall be based 47275  
on the lowest of the rate customarily charged by the provider, the 47276  
reimbursement ceiling or rate of payment established pursuant to 47277  
section 5104.30 of the Revised Code, or a rate the county 47278  
department negotiates with the provider. The county department may 47279  
provide the certificates for payment to the individuals or may 47280  
contract with child day-care providers or child day-care resource 47281  
and referral service organizations that make determinations of 47282  
eligibility for publicly funded child day-care pursuant to 47283  
contracts entered into under section 5104.34 of the Revised Code 47284  
for the providers or resource and referral service organizations 47285  
to provide the certificates for payment to individuals whom they 47286  
determine are eligible for publicly funded child day-care. 47287

For each six-month period a provider of publicly funded child 47288  
day-care provides publicly funded child day-care to the child of 47289  
an individual given certificates ~~of~~ for payment, the individual 47290  
shall provide the provider certificates for days the provider 47291  
would have provided publicly funded child day-care to the child 47292  
had the child been present. County departments shall specify the 47293  
maximum number of days providers will be provided certificates of 47294  
payment for days the provider would have provided publicly funded 47295  
child day-care had the child been present. The maximum number of 47296  
days shall not exceed ten days in a six-month period during which 47297  
publicly funded child day-care is provided to the child regardless 47298

of the number of providers that provide publicly funded child 47299  
day-care to the child during that period. 47300

**Sec. 5107.02.** As used in this chapter: 47301

(A) "Adult" means an individual who is not a minor child. 47302

(B) "Assistance group" means a group of individuals treated 47303  
as a unit for purposes of determining eligibility for and the 47304  
amount of assistance provided under Ohio works first. 47305

(C) "Custodian" means an individual who has legal custody, as 47306  
defined in section 2151.011 of the Revised Code, of a minor child 47307  
or comparable status over a minor child created by a court of 47308  
competent jurisdiction in another state. 47309

(D) "Guardian" means an individual that is granted authority 47310  
by a probate court pursuant to Chapter 2111. of the Revised Code, 47311  
or a court of competent jurisdiction in another state, to exercise 47312  
parental rights over a minor child to the extent provided in the 47313  
court's order and subject to residual parental rights of the minor 47314  
child's parents. 47315

(E) "Minor child" means either of the following: 47316

(1) An individual who has not attained age eighteen; 47317

(2) An individual who has not attained age nineteen and is a 47318  
full-time student in a secondary school or in the equivalent level 47319  
of vocational or technical training. 47320

(F) "Minor head of household" means a minor child who is 47321  
either of the following: 47322

(1) ~~A~~ Is married, at least six months pregnant, and a member 47323  
of an assistance group that does not include an adult; 47324

(2) ~~A~~ Is married and is a parent of a child included in the 47325  
same assistance group that does not include an adult. 47326

(G) "Ohio works first" means the program established by this 47327

chapter known as temporary assistance for needy families in Title 47328  
IV-A. 47329

(H) "Payment standard" means the amount specified in rules 47330  
adopted under section 5107.05 of the Revised Code that is the 47331  
maximum amount of cash assistance an assistance group may receive 47332  
under Ohio works first from state and federal funds. 47333

(I) "Specified relative" means the following individuals who 47334  
are age eighteen or older: 47335

(1) The following individuals related by blood or adoption: 47336

(a) Grandparents, including grandparents with the prefix 47337  
"great," "great-great," or "great-great-great"; 47338

(b) Siblings; 47339

(c) Aunts, uncles, nephews, and nieces, including such 47340  
relatives with the prefix "great," "great-great," "grand," or 47341  
"great-grand"; 47342

(d) First cousins and first cousins once removed. 47343

(2) Stepparents and stepsiblings; 47344

(3) Spouses and former spouses of individuals named in 47345  
division (I)(1) or (2) of this section. 47346

(J) "Title IV-A" or "Title IV-D" means Title IV-A or Title 47347  
IV-D of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 47348  
301, as amended. 47349

**Sec. 5107.30.** (A) As used in this section: 47350

(1) "LEAP program" means the learning, earning, and parenting 47351  
program. 47352

(2) "Teen" means a participant of Ohio works first who is 47353  
under age ~~twenty~~ eighteen or is age eighteen and in school and is 47354  
a natural or adoptive parent or is pregnant. 47355

(3) "School" means an educational program that is designed to lead to the attainment of a high school diploma or the equivalent of a high school diploma.

(B) The director of job and family services may adopt rules under section 5107.05 of the Revised Code, to the extent that such rules are consistent with federal law, to do all of the following:

(1) Define "good cause" and "the equivalent of a high school diploma" for the purposes of this section;

(2) Conduct ~~one or more special demonstration programs a~~ program titled the "LEAP program" and establish requirements governing the program. The purpose of the LEAP program is to encourage teens to complete school.

(3) Require every teen who is subject to LEAP program requirements to attend school in accordance with the requirements governing the program unless the teen shows good cause for not attending school. The department shall provide, in addition to the cash assistance payment provided under Ohio works first, an incentive payment, in an amount determined by the department, to every teen who is participating in the LEAP program and attends school in accordance with the requirements governing the program. The department shall reduce the cash assistance payment, in an amount determined by the department, under Ohio works first to every teen participating in the LEAP program who fails or refuses, without good cause, to ~~attend school in accordance with~~ meet the requirements governing the program.

(4) Require every teen who is subject to LEAP program requirements to enter into a written agreement with the county department of job and family services that provides all of the following:

(a) The teen, to be eligible to receive the incentive payment under division (B)(3) of this section, must ~~attend school in~~

~~accordance with~~ meet the requirements of the LEAP program~~.~~ 47387

(b) The county department will provide the incentive payment 47388  
to the teen if the teen ~~attends school;~~ meets the requirements of 47389  
the LEAP program. 47390

(c) The county department will reduce the cash assistance 47391  
payment under Ohio works first if the teen fails or refuses 47392  
without good cause to attend school in accordance with the 47393  
requirements governing the LEAP program. 47394

~~(5) Evaluate the demonstration programs established under 47395  
this section. In conducting the evaluations, the department of job 47396  
and family services shall select control groups of teens who are 47397  
otherwise subject to the LEAP program requirements. 47398~~

(C) A ~~teen~~ minor head of household who is participating in 47399  
the LEAP program shall be considered to be participating in a work 47400  
activity for the purpose of sections 5107.40 to 5107.69 of the 47401  
Revised Code. However, the ~~teen~~ minor head of household is not 47402  
subject to the requirements or sanctions of those sections, ~~unless 47403  
the teen is over age eighteen and meets the LEAP program 47404  
requirements by participating regularly in work activities, 47405  
developmental activities, or alternative work activities under 47406  
those sections. 47407~~

(D) Subject to the availability of funds, county departments 47408  
of job and family services shall provide for LEAP participants to 47409  
receive support services the county department determines to be 47410  
necessary for LEAP participation. Support services may include 47411  
publicly funded child day-care under Chapter 5104. of the Revised 47412  
Code, transportation, and other services. 47413

**Sec. 5107.37.** ~~An~~ (A) Except as provided in division (B) of 47414  
this section, an individual who resides in a county home, city 47415  
infirmary, jail, or other public institution is not eligible to 47416



participate in Ohio works first. 47417

(B) Division (A) of this section does not apply to a minor 47418  
child residing with the minor child's mother who participates in a 47419  
prison nursery program established under section 5120.65 of the 47420  
Revised Code. 47421

**Sec. 5107.40.** As used in sections 5107.40 to 5107.69 of the 47422  
Revised Code: 47423

(A) "Alternative work activity" means an activity designed to 47424  
promote self sufficiency and personal responsibility established 47425  
by a county department of job and family services under section 47426  
5107.64 of the Revised Code. 47427

(B) "Developmental activity" means an activity designed to 47428  
promote self sufficiency and personal responsibility established 47429  
by a county department of job and family services under section 47430  
5107.62 of the Revised Code. 47431

(C) "High school equivalence diploma" means a diploma 47432  
attesting to achievement of the equivalent of a high school 47433  
education as measured by scores obtained on the tests of general 47434  
educational development published by the American council on 47435  
education. "High school equivalence diploma" includes a 47436  
certificate of high school equivalence issued prior to January 1, 47437  
1994, attesting to the achievement of the equivalent of a high 47438  
school education as measured by scores obtained on tests of 47439  
general educational development. 47440

(D) "Work activity" means the following: 47441

(1) Unsubsidized employment activities established under 47442  
section 5107.60 of the Revised Code; 47443

(2) The subsidized employment program established under 47444  
section 5107.52 of the Revised Code; 47445

(3) The work experience program established under section 47446

5107.54 of the Revised Code;	47447
(4) On-the-job training activities established under section 5107.60 of the Revised Code;	47448 47449
(5) The job search and readiness program established under section 5107.50 of the Revised Code;	47450 47451
(6) Community service activities established under section 5107.60 of the Revised Code;	47452 47453
(7) Vocational educational training activities established under section 5107.60 of the Revised Code;	47454 47455
(8) Jobs skills training activities established under section 5107.60 of the Revised Code that are directly related to employment;	47456 47457 47458
(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;	47459 47460 47461 47462
(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;	47463 47464 47465 47466 47467 47468
(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;	47469 47470 47471 47472
(12) The education program established under section 5107.58 of the Revised Code that are operated pursuant to a federal waiver granted by the United States secretary of health and human services pursuant to a request made under former section 5101.09	47473 47474 47475 47476

of the Revised Code;	47477
(13) <del>Except as limited</del> <u>To the extent provided</u> by division (C)	47478
of section 5107.30 of the Revised Code, the LEAP program	47479
established under that section.	47480
<b>Sec. 5107.60.</b> In accordance with Title IV-A, federal	47481
regulations, state law, the Title IV-A state plan prepared under	47482
section 5101.80 of the Revised Code, and amendments to the plan,	47483
county departments of job and family services shall establish and	47484
administer the following work activities, in addition to the work	47485
activities established under sections 5107.50, 5107.52, 5107.54,	47486
and 5107.58 of the Revised Code, for minor heads of households and	47487
adults participating in Ohio works first:	47488
(A) Unsubsidized employment activities, including activities	47489
a county department determines are legitimate entrepreneurial	47490
activities;	47491
(B) On-the-job training activities, including training to	47492
become an employee of a child day-care center or type A family	47493
day-care home, authorized provider of a certified type B family	47494
day-care home, or in-home aide;	47495
(C) Community service activities including a program under	47496
which a participant of Ohio works first who is the parent,	47497
guardian, custodian, or specified relative responsible for the	47498
care of a minor child enrolled in grade twelve or lower is	47499
involved in the minor child's education on a regular basis;	47500
(D) Vocational educational training activities;	47501
(E) Jobs skills training activities that are directly related	47502
to employment;	47503
(F) Education activities that are directly related to	47504
employment for participants who have not earned a high school	47505
diploma or high school equivalence diploma;	47506

(G) Education activities for participants who have not 47507  
completed secondary school or received a high school equivalence 47508  
diploma under which the participants attend a secondary school or 47509  
a course of study leading to a high school equivalence diploma, 47510  
including LEAP participation by a minor head of household; 47511

(H) Child-care service activities aiding another participant 47512  
assigned to a community service activity or other work activity. A 47513  
county department may provide for a participant assigned to this 47514  
work activity to receive training necessary to provide child-care 47515  
services. 47516

**Sec. 5108.01.** As used in this chapter: 47517

(A) ~~"Assistance group" means a group of individuals treated~~ 47518  
~~as a unit for purposes of determining eligibility for the~~ 47519  
~~prevention, retention, and contingency program~~ "County family 47520  
services planning committee" means the county family services 47521  
planning committee established under section 329.06 of the Revised 47522  
Code or the board created by consolidation under division (C) of 47523  
section 6301.06 of the Revised Code. 47524

(B) "Prevention, retention, and contingency program" means 47525  
the program established by this chapter and funded in part with 47526  
federal funds provided under Title IV-A. 47527

(C) "Title IV-A" means Title IV-A of the "Social Security 47528  
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. 47529

**Sec. 5108.03.** Under the prevention, retention, and 47530  
contingency program, ~~a~~ each county department of job and family 47531  
services shall ~~provide~~ do both of the following in accordance with 47532  
the statement of policies the county department develops under 47533  
section 5108.04 of the Revised Code: 47534

(A) Provide benefits and services that individuals need to 47535

overcome immediate barriers to achieving or maintaining self 47536  
sufficiency and personal responsibility; 47537

(B) Perform related administrative duties. A county 47538  
~~department shall provide the benefits and services in accordance~~ 47539  
~~with either the model design for the program that the department~~ 47540  
~~of job and family services develops under section 5108.05 of the~~ 47541  
~~Revised Code or the county department's own policies for the~~ 47542  
~~program developed under section 5108.06 of the Revised Code.~~ 47543

**Sec. 5108.06 5108.04.** Each county department of job and 47544  
family services shall ~~either adopt the model design for a written~~ 47545  
statement of policies governing the prevention, retention, and 47546  
~~contingency program the department of job and family services~~ 47547  
~~develops under section 5108.05 of the Revised Code or develop its~~ 47548  
~~own policies for the program county. To develop its own policies,~~ 47549  
~~a county department shall adopt a written statement of the~~ 47550  
~~policies governing the program. The policies may be a modification~~ 47551  
~~of the model design, different from the model design, or a~~ 47552  
~~combination. The statement of policies shall be adopted not later~~ 47553  
than October 1, 2003, and shall be updated at least every two 47554  
years thereafter. A county department may amend its statement of 47555  
policies to modify, terminate, and establish new policies. The 47556  
county director of job and family services shall sign and date the 47557  
statement of policies and any amendment to it. Neither the 47558  
statement of policies nor any amendment to it may have an 47559  
effective date that is earlier than the date of the county 47560  
director's signature. 47561

A Each county department of job and family services shall 47562  
~~inform~~ provide the department of job and family services ~~of~~ 47563  
~~whether it has adopted the model design or developed its own~~ 47564  
~~policies for the prevention, retention, and contingency program.~~ 47565  
~~If a county department develops its own policies, it shall provide~~ 47566

~~the department~~ a written copy of the statement of policies and any 47567  
amendments it adopts to the statement not later than ten calendar 47568  
days after the statement or amendment's effective date. 47569

~~Sec. 5108.07 5108.05.~~ ~~The model design for the prevention,~~ 47570  
~~retention, and contingency program that the department of job and~~ 47571  
~~family services develops under section 5108.05 of the Revised Code~~ 47572  
~~and policies for the program that a county department of job and~~ 47573  
~~family services may develop under section 5108.06 of the Revised~~ 47574  
~~Code shall establish~~ In adopting a statement of policies under 47575  
section 5108.04 of the Revised Code for the county's prevention, 47576  
retention, and contingency program, each county department of job 47577  
and family services shall do all of the following: 47578

(A) Establish or specify eligibility requirements for 47579  
~~assistance groups that apply for the program under section 5108.10~~ 47580  
~~of the Revised Code, benefits~~ all of the following: 47581

(1) Benefits and services to be provided under the program ~~to~~ 47582  
~~assistance groups, administrative~~ that are allowable uses of 47583  
federal Title IV-A funds under 42 U.S.C. 601 and 604(a), except 47584  
that they may not be "assistance" as defined in 45 C.F.R. 47585  
260.31(a) but rather benefits and services that 45 C.F.R. 47586  
260.31(b) excludes from the definition of assistance; 47587

(2) Restrictions on the amount, duration, and frequency of 47588  
the benefits and services; 47589

(3) Eligibility requirements for the benefits and services; 47590

(4) Fair and equitable procedures for both of the following: 47591

(a) The certification of eligibility for the benefits and 47592  
services that do not have a financial need eligibility 47593  
requirement; 47594

(b) The determination and verification of eligibility for the 47595  
benefits and services that have a financial need eligibility 47596

requirement. 47597

(5) Objective criteria for the delivery of the benefits and services; 47598  
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(6) Administrative requirements, and other; 47600

(7) Other matters the department, in the case of the model design, or a county department, in the case of county policies, determine determines are necessary. 47601  
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~~The model design and a county department's policies may establish eligibility requirements for, and specify benefits and services to be provided to, types of groups, such as students in the same class, that share a common need for the benefits and services. If the model design or a county department's policies include such a provision, the model design or county department's policies shall require that each individual who is to receive the benefits and services meet the eligibility requirements established for the type of group of which the individual is a member. The model design or county department's policies also shall require that the county department providing the benefits and services certify the group's eligibility, specify the duration that the group is to receive the benefits and services, and maintain the eligibility information for each member of the group receiving the benefits and services.~~ 47604  
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~~The model design and a county department's policies may specify benefits and services that a county department may provide for the general public, including billboards that promote the prevention, and reduction in the incidence, of out of wedlock pregnancies or encourage the formation and maintenance of two parent families.~~ 47619  
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~~The model design and a county department's policies must be consistent with~~ (B) Provide for the statement of policies to be consistent with all of the following: 47625  
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(1) The plan of cooperation the board of county commissioners develops under section 307.983 of the Revised Code; 47628  
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(2) The review and analysis of the county family services committee conducted in accordance with division (B)(2) of section 329.06 of the Revised Code; 47630  
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(3) Title IV-A, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, and amendments to the plan. All benefits and services to be provided under the model design or a county department's policies must be allowable uses of federal Title IV A funds as specified in 42 U.S.C.A. 604(a), except that they may not be "assistance" as defined in 45 C.F.R. 260.31(a). The benefits and services shall be benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of assistance. 47633  
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(C) Either provide the public and local government entities at least thirty days to submit comments on, or have the county family services planning committee review, the statement of policies, including the design of the county's prevention, retention, and contingency program, before the county director signs and dates the statement of policies. 47643  
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Sec. 5108.06. In adopting a statement of policies under section 5108.04 of the Revised Code for the county's prevention, retention, and contingency program, a county department of job and family services may specify both of the following: 47649  
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(A) Benefits and services to be provided under the program that prevent and reduce the incidence of out-of-wedlock pregnancies or encourage the formation and maintenance of two-parent families as permitted by 45 C.F.R. 260.20(c) and (d); 47653  
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(B) How the county department will certify individuals' 47657



eligibility for such benefits and services. 47658

Sec. 5108.07. (A) Each statement of policies adopted under section 5108.04 of the Revised Code shall include the board of county commissioners' certification that the county department of job and family services complied with this chapter in adopting the statement of policies. 47659  
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(B) The board of county commissioners shall revise its certification under division (A) of this section if an amendment to the statement of policies that the board considers to be significant is adopted under section 5108.04 of the Revised Code. 47664  
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Sec. 5108.09. When a state hearing under division (B) of section 5101.35 of the Revised Code or an administrative appeal under division (C) of that section is held regarding the prevention, retention, and contingency program, the hearing officer, director of job and family services, or director's designee shall base the decision in the hearing or appeal on the following: 47668  
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~~(A) If the county department of job and family services involved in the hearing or appeal adopted the department of job and family services' model design for the program developed under section 5108.05 of the Revised Code, the model design:~~ 47675  
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~~(B) If the county department developed its own policies for the program,~~ the county department's department of job and family services' written statement of policies adopted under section ~~5108.06~~ 5108.04 of the Revised Code and any amendments the county department adopted to the statement if the county department provides a copy of the statement of policies and all amendments to the hearing officer, director, or director's designee at the hearing or appeal. 47679  
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~~Sec. 5108.10. An assistance group seeking to participate in the prevention, retention, and contingency program shall apply to a county department of job and family services using Eligibility for a benefit or service under a county's prevention, retention, and contingency program shall be certified in accordance with the statement of policies adopted under section 5108.04 of the Revised Code if the benefit or service does not have a financial need eligibility requirement.~~ 47687  
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Eligibility for a benefit or service shall be determined in accordance with the statement of policies and based on an application containing information the county department of job and family services requires- 47695  
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~~When if the benefit or service has a financial need eligibility requirement. When a county department receives an application for participation in the prevention, retention, and contingency program such benefits and services, it shall promptly make an investigation and record of the circumstances of the applicant in order to ascertain follow verification procedures established by the statement of policies to verify the facts surrounding the application and to obtain such other information as may be required. On completion of the investigation verification procedure, the county department shall determine whether the applicant is eligible to participate, for the benefits or services the applicant should receive, and the approximate date when participation is the benefits or services are to begin.~~ 47699  
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Sec. 5108.11. (A) To the extent permitted by section 307.982 of the Revised Code, a board of county commissioners may enter into a written contract with a private or government entity for the entity to do either or both of the following for the county's prevention, retention, and contingency program: 47712  
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<u>(1) Certify eligibility for benefits and services that do not have a financial need eligibility requirement;</u>	47717
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<u>(2) Accept applications and determine and verify eligibility for benefits and services that have a financial need eligibility requirement.</u>	47719
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<u>(B) If a board of county commissioners enters into a contract under division (A) of this section with a private or government entity, the county department of job and family services shall do all of the following:</u>	47722
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<u>(1) Ensure that eligibility for benefits and services is certified or determined and verified in accordance with the statement of policies adopted under section 5108.04 of the Revised Code;</u>	47726
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<u>(2) Ensure that the private or government entity maintains all records that are necessary for audits;</u>	47730
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<u>(3) Monitor the private or government entity for compliance with Title IV-A, this chapter of the Revised Code, and the statement of policies;</u>	47732
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<u>(4) Take actions that are necessary to recover any funds that are not spent in accordance with Title IV-A or this chapter of the Revised Code.</u>	47735
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	47737
<u>Sec. 5108.12. Each county department of job and family services is responsible for funds expended or claimed under the county's prevention, retention, and contingency program that the department of job and family services, auditor of state, United States department of health and human services, or other government entity determines is expended or claimed in a manner that federal or state law or policy does not permit.</u>	47738
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<u>Sec. 5111.019. (A) <del>The</del> If sufficient funds are appropriated</u>	47745

by the general assembly, the director of job and family services 47746  
~~shall~~ may submit to the United States secretary of health and 47747  
human services an amendment to the state medicaid plan to make an 47748  
individual who meets all of the following requirements eligible 47749  
for medicaid for the amount of time provided by division (B) of 47750  
this section: 47751

(1) The individual is the parent of a child under nineteen 47752  
years of age and resides with the child; 47753

(2) The individual's family income does not exceed one 47754  
hundred per cent of the federal poverty guidelines; 47755

(3) The individual is not otherwise eligible for medicaid; 47756

(4) The individual satisfies all relevant requirements 47757  
established by rules adopted under division (D) of section 5111.01 47758  
of the Revised Code. 47759

(B) An individual is eligible to receive medicaid under this 47760  
section for a period that does not exceed two years beginning on 47761  
the date on which eligibility is established. 47762

~~(C) If approved by the United States secretary of health and 47763  
human services and the director of job and family services, the 47764  
director shall implement the medicaid plan amendment submitted 47765  
under this section not sooner than July 1, 2000. If a federal 47766  
waiver is necessary for the United States secretary to approve the 47767  
amendment, the director of job and family services shall submit a 47768  
waiver request to the United States secretary not later than 47769  
ninety days after the effective date of this section. 47770~~

**Sec. 5111.0112.** The director of job and family services shall 47771  
examine instituting a copayment program under medicaid. As part of 47772  
the examination, the director shall determine which groups of 47773  
medicaid recipients may be subjected to a copayment requirement 47774  
under federal statutes and regulations ~~and which of those groups~~ 47775

~~are appropriate for a copayment program designed to reduce~~ 47776  
~~inappropriate and excessive use of medical goods and services.~~ If, 47777  
on completion of the examination, the director determines that it 47778  
is feasible to institute such a copayment program, the director 47779  
may seek approval from the United States secretary of health and 47780  
human services to institute the copayment program. If necessary, 47781  
the director may seek approval by applying for a waiver of federal 47782  
statutes and regulations. If such approval is obtained, the 47783  
director shall adopt rules in accordance with Chapter 119. of the 47784  
Revised Code governing the copayment program. 47785

Sec. 5111.0113. Children who are in the temporary or 47786  
permanent custody of a certified public or private nonprofit 47787  
agency or institution or in adoptions subsidized under division 47788  
(B) of section 5153.163 of the Revised Code are eligible for 47789  
medical assistance through the medicaid program established under 47790  
section 5111.01 of the Revised Code. 47791

**Sec. 5111.02.** (A) Under the medical assistance program: 47792

(1) Except as otherwise permitted by federal statute or 47793  
regulation and at the department's discretion, reimbursement by 47794  
the department of job and family services to a medical provider 47795  
for any medical service rendered under the program shall not 47796  
exceed the authorized reimbursement level for the same service 47797  
under the medicare program established under Title XVIII of the 47798  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 47799  
amended. 47800

(2) Reimbursement for freestanding medical laboratory charges 47801  
shall not exceed the customary and usual fee for laboratory 47802  
profiles. 47803

(3) The department may deduct from payments for services 47804  
rendered by a medicaid provider under the medical assistance 47805

program any amounts the provider owes the state as the result of 47806  
incorrect medical assistance payments the department has made to 47807  
the provider. 47808

(4) The department may conduct final fiscal audits in 47809  
accordance with the applicable requirements set forth in federal 47810  
laws and regulations and determine any amounts the provider may 47811  
owe the state. When conducting final fiscal audits, the department 47812  
shall consider generally accepted auditing standards, which 47813  
include the use of statistical sampling. 47814

(5) The number of days of inpatient hospital care for which 47815  
reimbursement is made on behalf of a recipient of medical 47816  
assistance to a hospital that is not paid under a 47817  
diagnostic-related-group prospective payment system shall not 47818  
exceed thirty days during a period beginning on the day of the 47819  
recipient's admission to the hospital and ending sixty days after 47820  
the termination of that hospital stay, except that the department 47821  
may make exceptions to this limitation. The limitation does not 47822  
apply to children participating in the program for medically 47823  
handicapped children established under section 3701.023 of the 47824  
Revised Code. 47825

(B) The director of job and family services may adopt, amend, 47826  
or rescind rules under Chapter 119. of the Revised Code 47827  
establishing the amount, duration, and scope of medical services 47828  
to be included in the medical assistance program. Such rules shall 47829  
establish the conditions under which services are covered and 47830  
reimbursed, the method of reimbursement applicable to each covered 47831  
service, and the amount of reimbursement or, in lieu of such 47832  
amounts, methods by which such amounts are to be determined for 47833  
each covered service. Any rules that pertain to nursing facilities 47834  
or intermediate care facilities for the mentally retarded shall be 47835  
consistent with sections 5111.20 to 5111.33 of the Revised Code. 47836

(C) ~~No health insuring corporation that has a contract to~~ 47837

~~provide health care services to recipients of medical assistance 47838  
shall restrict the availability to its enrollees of any 47839  
prescription drugs included in the Ohio medicaid drug formulary as 47840  
established under rules adopted by the director. 47841~~

(D) The division of any reimbursement between a collaborating 47842  
physician or podiatrist and a clinical nurse specialist, certified 47843  
nurse-midwife, or certified nurse practitioner for services 47844  
performed by the nurse shall be determined and agreed on by the 47845  
nurse and collaborating physician or podiatrist. In no case shall 47846  
reimbursement exceed the payment that the physician or podiatrist 47847  
would have received had the physician or podiatrist provided the 47848  
entire service. 47849

**Sec. 5111.021.** Under the medical assistance program, any 47850  
amount determined to be owed the state by a final fiscal audit 47851  
conducted pursuant to division (A)(4) of section 5111.02 of the 47852  
Revised Code, upon the issuance of an adjudication order pursuant 47853  
to Chapter 119. of the Revised Code that contains a finding that 47854  
there is a preponderance of the evidence that the provider will 47855  
liquidate assets or file bankruptcy in order to prevent payment of 47856  
the amount determined to be owed the state, becomes a lien upon 47857  
the real and personal property of the provider. Upon failure of 47858  
the provider to pay the amount to the state, the director of job 47859  
and family services shall file notice of the lien, for which there 47860  
shall be no charge, in the office of the county recorder of the 47861  
county in which it is ascertained that the provider owns real or 47862  
personal property. The director shall notify the provider by mail 47863  
of the lien, but absence of proof that the notice was sent does 47864  
not affect the validity of the lien. The lien is not valid as 47865  
against the claim of any mortgagee, pledgee, purchaser, judgment 47866  
creditor, or other lienholder of record at the time the notice is 47867  
filed. 47868

If the provider acquires real or personal property after 47869  
notice of the lien is filed, the lien shall not be valid as 47870  
against the claim of any mortgagee, pledgee, subsequent bona fide 47871  
purchaser for value, judgment creditor, or other lienholder of 47872  
record to such after-acquired property unless the notice of lien 47873  
is refiled after the property is acquired by the provider and 47874  
before the competing lien attaches to the after-acquired property 47875  
or before the conveyance to the subsequent bona fide purchaser for 47876  
value. 47877

When the amount has been paid, the provider may record with 47878  
the recorder notice of the payment. For recording such notice of 47879  
payment, the recorder shall charge and receive from the provider a 47880  
base fee of one dollar for services and a housing trust fund fee 47881  
of one dollar pursuant to section 317.36 of the Revised Code. 47882

In the event of a distribution of a provider's assets 47883  
pursuant to an order of any court under the law of this state 47884  
including any receivership, assignment for benefit of creditors, 47885  
adjudicated insolvency, or similar proceedings, amounts then or 47886  
thereafter due the state under this chapter have the same priority 47887  
as provided by law for the payment of taxes due the state and 47888  
shall be paid out of the receivership trust fund or other such 47889  
trust fund in the same manner as provided for claims for unpaid 47890  
taxes due the state. 47891

If the attorney general finds after investigation that any 47892  
amount due the state under this chapter is uncollectable, in whole 47893  
or in part, the attorney general shall recommend to the director 47894  
the cancellation of all or part of the claim. The director may 47895  
thereupon effect the cancellation. 47896

**Sec. 5111.022.** (A) As used in this section: 47897

(1) "Community mental health facility" means a community 47898



mental health facility that has a quality assurance program 47899  
accredited by the joint commission on accreditation of healthcare 47900  
organizations or is certified by the department of mental health 47901  
or department of job and family services. 47902

(2) "Mental health professional" means a person qualified to 47903  
work with mentally ill persons under the standards established by 47904  
the director of mental health pursuant to section 5119.611 of the 47905  
Revised Code. 47906

(B) The state medicaid plan for providing medical assistance 47907  
under Title XIX of the "Social Security Act," 49 Stat. 620, 42 47908  
U.S.C.A. 301, as amended, shall include provision of the following 47909  
mental health services when provided by community mental health 47910  
facilities described in division (B) of this section: 47911

(1) Outpatient mental health services, including, but not 47912  
limited to, preventive, diagnostic, therapeutic, rehabilitative, 47913  
and palliative interventions rendered to individuals in an 47914  
individual or group setting by a mental health professional in 47915  
accordance with a plan of treatment appropriately established, 47916  
monitored, and reviewed; 47917

(2) Partial-hospitalization mental health services of three 47918  
to fourteen hours per service day, rendered by persons directly 47919  
supervised by a mental health professional; 47920

(3) Unscheduled, emergency mental health services of a kind 47921  
ordinarily provided to persons in crisis when rendered by persons 47922  
supervised by a mental health professional; 47923

(4) Subject to receipt of federal approval, assertive 47924  
community treatment and intensive home-based mental health 47925  
services. 47926

~~(B) Services shall be included in the state plan only when~~ 47927  
~~provided by community mental health facilities that have quality~~ 47928  
~~assurance programs accredited by the joint commission on~~ 47929

~~accreditation of healthcare organizations or certified by the 47930  
department of mental health or department of job and family 47931  
services. 47932~~

(C) ~~The comprehensive annual plan shall certify the 47933  
availability of sufficient unencumbered community mental health 47934  
state subsidy and local funds to match Title XIX federal medicaid 47935  
reimbursement funds earned by the community mental health 47936  
facilities. ~~Reimbursement for eligible services shall be based on 47937  
the prospective cost of providing the services as developed in 47938  
standards adopted as part of the comprehensive annual plan. 47939~~~~

(D) ~~As used in this section, "mental health professional" 47940  
means a person qualified to work with mentally ill persons under 47941  
the standards established by the director of mental health 47942  
pursuant to section 5119.611 of the Revised Code. 47943~~

~~(E) With respect to services established by division (A) of 47944  
this section, the The department of job and family services shall 47945  
enter into a separate contract with the department of mental 47946  
health under section 5111.91 of the Revised Code with regard to 47947  
the component of the medicaid program provided for by this 47948  
section. The terms of the contract between the department of job 47949  
and family services and the department of mental health shall 47950  
specify both of the following: 47951~~

~~(1) That the department of mental health and boards of 47952  
alcohol, drug addiction, and mental health services shall provide 47953  
state and local matching funds for Title XIX of the "Social 47954  
Security Act," for reimbursement of services established by 47955  
division (A) of this section; 47956~~

~~(2) How the community mental health facilities described in 47957  
division (B) of this section will be paid for providing the 47958  
services established by division (A) of this section. 47959~~

(E) Not later than May 1, 2004, the department of job and 47960

family services shall request federal approval to provide 47961  
assertive community treatment and intensive home-based mental 47962  
health services under medicaid pursuant to this section. 47963

(F) On receipt of federal approval sought under division (F) 47964  
of this section, the director of job and family services shall 47965  
adopt rules in accordance with Chapter 119. of the Revised Code 47966  
establishing statewide access and acuity standards for partial 47967  
hospitalization mental health services and assertive community 47968  
treatment and intensive home-based mental health services provided 47969  
under medicaid pursuant to this section. The director shall 47970  
consult with the department of mental health in adopting the 47971  
rules. 47972

**Sec. 5111.025.** (A) In rules adopted under section 5111.02 of 47973  
the Revised Code, the director of job and family services shall 47974  
modify the manner or establish a new manner in which the following 47975  
are paid under medicaid: 47976

(1) Community mental health facilities for providing mental 47977  
health services included in the state medicaid plan pursuant to 47978  
section 5111.022 of the Revised Code; 47979

(2) Providers of alcohol and drug addiction services for 47980  
providing alcohol and drug addiction services included in the 47981  
medicaid program pursuant to rules adopted under section 5111.02 47982  
of the Revised Code. 47983

(B) In modifying the manner, or establishing a new manner, 47984  
for medicaid to pay for the services specified in division (A) of 47985  
this section, the director shall include a provision for obtaining 47986  
federal financial participation for the costs that each board of 47987  
alcohol, drug addiction, and mental health services incurs in its 47988  
administration of those services. Except as provided in section 47989  
5111.92 of the Revised Code, the department of job and family 47990  
services shall pay the federal financial participation obtained 47991

for such administrative costs to the board that incurs the 47992  
administrative costs. 47993

(C) The director's authority to modify the manner, or to 47994  
establish a new manner, for medicaid to pay for the services 47995  
specified in division (A) of this section is not limited by any 47996  
rules adopted under section 5111.02 or 5119.61 of the Revised Code 47997  
that are in effect on the effective date of this section and 47998  
govern the way medicaid pays for those services. This is the case 47999  
regardless of what state agency adopted the rules. 48000

**Sec. 5111.03.** (A) No provider of services or goods 48001  
contracting with the department of job and family services 48002  
pursuant to the medicaid program shall, by deception, obtain or 48003  
attempt to obtain payments under this chapter to which the 48004  
provider is not entitled pursuant to the provider agreement, or 48005  
the rules of the federal government or the department of job and 48006  
family services relating to the program. No provider shall 48007  
willfully receive payments to which the provider is not entitled, 48008  
or willfully receive payments in a greater amount than that to 48009  
which the provider is entitled; nor shall any provider falsify any 48010  
report or document required by state or federal law, rule, or 48011  
provider agreement relating to medicaid payments. As used in this 48012  
section, a provider engages in "deception" when the provider, 48013  
acting with actual knowledge of the representation or information 48014  
involved, acting in deliberate ignorance of the truth or falsity 48015  
of the representation or information involved, or acting in 48016  
reckless disregard of the truth or falsity of the representation 48017  
or information involved, deceives another or causes another to be 48018  
deceived by any false or misleading representation, by withholding 48019  
information, by preventing another from acquiring information, or 48020  
by any other conduct, act, or omission that creates, confirms, or 48021  
perpetuates a false impression in another, including a false 48022  
impression as to law, value, state of mind, or other objective or 48023

subjective fact. No proof of specific intent to defraud is 48024  
required to show, for purposes of this section, that a provider 48025  
has engaged in deception. 48026

(B) Any provider who violates division (A) of this section 48027  
shall be liable, in addition to any other penalties provided by 48028  
law, for all of the following civil penalties: 48029

(1) Payment of interest on the amount of the excess payments 48030  
at the maximum interest rate allowable for real estate mortgages 48031  
under section 1343.01 of the Revised Code on the date the payment 48032  
was made to the provider for the period from the date upon which 48033  
payment was made, to the date upon which repayment is made to the 48034  
state; 48035

(2) Payment of an amount equal to three times the amount of 48036  
any excess payments; 48037

(3) Payment of a sum of not less than five thousand dollars 48038  
and not more than ten thousand dollars for each deceptive claim or 48039  
falsification; 48040

(4) All reasonable expenses which the court determines have 48041  
been necessarily incurred by the state in the enforcement of this 48042  
section. 48043

(C) ~~In~~ As used in this division, "intermediate care facility 48044  
for the mentally retarded" and "nursing facility" have the same 48045  
meanings given in section 5111.20 of the Revised Code. 48046

In addition to the civil penalties provided in division (B) 48047  
of this section, the director of job and family services, upon the 48048  
conviction of, or the entry of a judgment in either a criminal or 48049  
civil action against, a medicaid provider or its owner, officer, 48050  
authorized agent, associate, manager, or employee in an action 48051  
brought pursuant to section 109.85 of the Revised Code, shall 48052  
terminate the provider agreement between the department and the 48053  
provider and stop reimbursement to the provider for services 48054

rendered for a period of up to five years from the date of 48055  
conviction or entry of judgment. As used in this chapter, "owner" 48056  
means any person having at least five per cent ownership in the 48057  
medicaid provider. No such provider, owner, officer, authorized 48058  
agent, associate, manager, or employee shall own or provide 48059  
services to any other medicaid provider or risk contractor or 48060  
arrange for, render, or order services for medicaid recipients 48061  
during the period of termination as provided in division (C) of 48062  
this section, nor, during the period of termination as provided in 48063  
division (C) of this section, shall such provider, owner, officer, 48064  
authorized agent, associate, manager, or employee receive 48065  
reimbursement in the form of direct payments from the department 48066  
or indirect payments of medicaid funds in the form of salary, 48067  
shared fees, contracts, kickbacks, or rebates from or through any 48068  
participating provider or risk contractor. The provider agreement 48069  
shall not be terminated or reimbursement terminated if the 48070  
provider or owner can demonstrate that the provider or owner did 48071  
not directly or indirectly sanction the action of its authorized 48072  
agent, associate, manager, or employee that resulted in the 48073  
conviction or entry of a judgment in a criminal or civil action 48074  
brought pursuant to section 109.85 of the Revised Code. Nothing in 48075  
this division prohibits any owner, officer, authorized agent, 48076  
associate, manager, or employee of a medicaid provider from 48077  
entering into a medicaid provider agreement if the person can 48078  
demonstrate that the person had no knowledge of an action of the 48079  
medicaid provider the person was formerly associated with that 48080  
resulted in the conviction or entry of a judgment in a criminal or 48081  
civil action brought pursuant to section 109.85 of the Revised 48082  
Code. 48083

~~Providers subject to sections 5111.20 to 5111.32 of the~~ 48084  
~~Revised Code~~ Nursing facility or intermediate care facility for 48085  
the mentally retarded providers whose agreements are terminated 48086  
pursuant to this section may continue to receive reimbursement for 48087

up to thirty days after the effective date of the termination if 48088  
the provider makes reasonable efforts to transfer recipients to 48089  
another facility or to alternate care and if federal funds are 48090  
provided for such reimbursement. 48091

(D) Any provider of services or goods contracting with the 48092  
department of job and family services pursuant to Title XIX of the 48093  
"Social Security Act," who, without intent, obtains payments under 48094  
this chapter in excess of the amount to which the provider is 48095  
entitled, thereby becomes liable for payment of interest on the 48096  
amount of the excess payments at the maximum real estate mortgage 48097  
rate on the date the payment was made to the provider for the 48098  
period from the date upon which payment was made to the date upon 48099  
which repayment is made to the state. 48100

(E) The attorney general on behalf of the state may commence 48101  
proceedings to enforce this section in any court of competent 48102  
jurisdiction; and the attorney general may settle or compromise 48103  
any case brought under this section with the approval of the 48104  
department of job and family services. Notwithstanding any other 48105  
provision of law providing a shorter period of limitations, the 48106  
attorney general may commence a proceeding to enforce this section 48107  
at any time within six years after the conduct in violation of 48108  
this section terminates. 48109

(F) The authority, under state and federal law, of the 48110  
department of job and family services or a county department of 48111  
job and family services to recover excess payments made to a 48112  
provider is not limited by the availability of remedies under 48113  
sections 5111.11 and 5111.12 of the Revised Code for recovering 48114  
benefits paid on behalf of recipients of medical assistance. 48115

The penalties under this chapter apply to any overpayment, 48116  
billing, or falsification occurring on and after April 24, 1978. 48117  
All moneys collected by the state pursuant to this section shall 48118  
be deposited in the state treasury to the credit of the general 48119

revenue fund.	48120
<b>Sec. 5111.06.</b> (A)(1) As used in this section:	48121
(a) "Provider" means any person, institution, or entity that furnishes medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.	48122 48123 48124 48125 48126
(b) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.	48127 48128
(c) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code.	48129 48130
(2) This section does not apply to any action taken by the department of job and family services under sections 5111.35 to 5111.62 of the Revised Code.	48131 48132 48133
(B) Except as provided in division (D) of this section, the department shall do either of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code:	48134 48135 48136 48137
(1) Enter into or refuse to enter into a provider agreement with a provider, or suspend, terminate, renew, or refuse to renew an existing provider agreement with a provider;	48138 48139 48140
(2) Take any action based upon a final fiscal audit of a provider.	48141 48142
(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.	48143 48144 48145 48146
(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:	48147 48148



(1) The terms of a provider agreement require the provider to have a license, permit, or certificate issued by an official, board, commission, department, division, bureau, or other agency of state government other than the department of job and family services, and the license, permit, or certificate has been denied or revoked.

(2) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (E) of section 5111.03 of the Revised Code;

(3) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act," and the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program;

(4) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program;

(5) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program.

(E) The department may withhold payments for services rendered by a medicaid provider under the medical assistance 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 48180  
not issue a decision within thirty days after the hearing is 48181  
completed. This division does not apply to nursing facilities and 48182  
intermediate care facilities for the mentally retarded ~~subject to~~ 48183  
~~sections as defined in section 5111.20 to 5111.32~~ of the Revised 48184  
Code. 48185

**Sec. ~~5111.08~~ 5111.071.** Commencing in December, 1986, and 48186  
every second December thereafter, the director of job and family 48187  
services shall establish a dispensing fee, effective the following 48188  
January, for licensed pharmacists who are providers under this 48189  
chapter. The dispensing fee shall take into consideration the 48190  
results of the survey conducted under section 5111.07 of the 48191  
Revised Code. 48192

**Sec. ~~5111.16~~ 5111.08.** In accordance with subsection (g) of 48193  
section 1927 of the "Social Security Act," 49 Stat. 320 (1935), 42 48194  
U.S.C.A. 1396r-8(g), as amended, the department of job and family 48195  
services shall establish an outpatient drug use review program to 48196  
assure that prescriptions obtained by recipients of medical 48197  
assistance under this chapter are appropriate, medically 48198  
necessary, and unlikely to cause adverse medical results. 48199

**Sec. 5111.082.** The director of job and family services, in 48200  
rules adopted under section 5111.02 of the Revised Code, may 48201  
establish and implement a supplemental drug rebate program under 48202  
which drug manufacturers may be required to provide the department 48203  
of job and family services a supplemental rebate as a condition of 48204  
having the drug manufacturers' drug products covered by the 48205  
medicaid program without prior approval. If necessary, the 48206  
director may apply to the United States secretary of health and 48207  
human services for a waiver of federal statutes and regulations to 48208  
establish the supplemental drug rebate program. 48209

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

If the director establishes a supplemental drug rebate program, the director shall exempt from the program and from prior authorization or any other restriction all of a drug manufacturer's drug products that have been approved by the United States food and drug administration and for which there is no generic equivalent for the treatment of either of the following:

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

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

**Sec. 5111.111.** As used in this section, "home and community-based services" means services provided pursuant to a waiver under section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended.

The department of job and family services may place a lien against the property of a medical assistance recipient or recipient's spouse, other than a recipient or spouse of a recipient of home and community-based services, that the department may recover as part of the program instituted under section 5111.11 of the Revised Code. When medical assistance is paid on behalf of any person in circumstances under which federal law and regulations and this section permit the imposition of a lien, the director of job and family services or a person designated by the director may sign a certificate to the effect. The county department of job and family services shall file for recording and indexing the certificate, or a certified copy, in

the real estate mortgage records in the office of the county 48240  
recorder in every county in which real property of the recipient 48241  
or spouse is situated. From the time of filing the certificate in 48242  
the office of the county recorder, the lien attaches to all real 48243  
property of the recipient or spouse described therein for all 48244  
amounts of aid which are paid or which thereafter are paid, and 48245  
shall remain a lien until satisfied. 48246

Upon filing the certificate in the office of the recorder, 48247  
all persons are charged with notice of the lien and the rights of 48248  
the department of job and family services thereunder. 48249

The county recorder shall keep a record of every certificate 48250  
filed showing its date, the time of filing, the name and residence 48251  
of the recipient or spouse, and any release, waivers, or 48252  
satisfaction of the lien. 48253

The priority of the lien shall be established in accordance 48254  
with state and federal law. 48255

The department may waive the priority of its lien to provide 48256  
for the costs of the last illness as determined by the department, 48257  
administration, attorney fees, administrator fees, a sum for the 48258  
payment of the costs of burial, which shall be computed by 48259  
deducting from five hundred dollars whatever amount is available 48260  
for the same purpose from all other sources, and a similar sum for 48261  
the spouse of the decedent. 48262

Sec. 5111.151. (A) This section applies to eligibility 48263  
determinations for all cases involving medical assistance provided 48264  
pursuant to this chapter, qualified medicare beneficiaries, 48265  
specified low-income medicare beneficiaries, qualifying 48266  
individuals-1, qualifying individuals-2, and medical assistance 48267  
for covered families and children. 48268

(B) As used in this section: 48269

(1) "Trust" means any arrangement in which a grantor transfers real or personal property to a trust with the intention that it be held, managed, or administered by at least one trustee for the benefit of the grantor or beneficiaries. "Trust" includes any legal instrument or device similar to a trust. 48270  
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(2) "Legal instrument or device similar to a trust" includes, but is not limited to, escrow accounts, investment accounts, partnerships, contracts, and other similar arrangements that are not called trusts under state law but are similar to a trust and to which all of the following apply: 48275  
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(a) The property in the trust is held, managed, retained, or administered by a trustee. 48280  
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(b) The trustee has an equitable, legal, or fiduciary duty to hold, manage, retain, or administer the property for the benefit of the beneficiary. 48282  
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(c) The trustee holds identifiable property for the beneficiary. 48285  
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(3) "Grantor" is a person who creates a trust, including all of the following: 48287  
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(a) An individual; 48289

(b) An individual's spouse; 48290

(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse; 48291  
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(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse. 48294  
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(4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust. 48297  
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<u>(5) "Trustee" is a person who manages a trust's principal and</u>	48299
<u>income for the benefit of the beneficiaries.</u>	48300
<u>(6) "Person" has the same meaning as in section 1.59 of the</u>	48301
<u>Revised Code and includes an individual, corporation, business</u>	48302
<u>trust, estate, trust, partnership, and association.</u>	48303
<u>(7) "Applicant" is an individual who applies for medical</u>	48304
<u>assistance benefits or the individual's spouse.</u>	48305
<u>(8) "Recipient" is an individual who receives medical</u>	48306
<u>assistance benefits or the individual's spouse.</u>	48307
<u>(9) "Revocable trust" is a trust that can be revoked by the</u>	48308
<u>grantor or the beneficiary, including all of the following, even</u>	48309
<u>if the terms of the trust state that it is irrevocable:</u>	48310
<u>(a) A trust that provides that the trust can be terminated</u>	48311
<u>only by a court;</u>	48312
<u>(b) A trust that terminates on the happening of an event, but</u>	48313
<u>only if the event occurs at the direction or control of the</u>	48314
<u>grantor, beneficiary, or trustee.</u>	48315
<u>(10) "Irrevocable trust" is a trust that cannot be revoked by</u>	48316
<u>the grantor or terminated by a court and that terminates only on</u>	48317
<u>the occurrence of an event outside of the control or direction of</u>	48318
<u>the beneficiary or grantor.</u>	48319
<u>(11) "Payment" is any disbursement from the principal or income</u>	48320
<u>of the trust, including actual cash, noncash or property</u>	48321
<u>disbursements, or the right to use and occupy real property.</u>	48322
<u>(12) "Payments to or for the benefit of the applicant or</u>	48323
<u>recipient" is a payment to any person resulting in a direct or</u>	48324
<u>indirect benefit to the applicant or recipient.</u>	48325
<u>(13) "Testamentary trust" is a trust that is established by a</u>	48326
<u>will and does not take effect until after the death of the person</u>	48327
<u>who created the trust.</u>	48328

(C) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted by the department of job and family services governing trusts. The county department of job and family services may determine that the trust or portion of the trust is one of the following:

(1) A countable resource; 48336

(2) Countable income; 48337

(3) A countable resource and countable income; 48338

(4) Not a countable resource or countable income. 48339

(D)(1) A trust or legal instrument or device similar to a trust shall be considered a self-settled trust if all of the following apply:

(a) The trust was established on or after August 11, 1993. 48343

(b) The trust was not established by a will. 48344

(c) The trust was established by an applicant or recipient, spouse of an applicant or recipient, or a person, including a court or administrative body, with legal authority to act in place of or on behalf of an applicant, recipient, or spouse, or acting at the direction or on request of an applicant, recipient, or spouse. 48345  
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(2) A trust that meets the requirements of division (D)(1) of this section and is a revocable trust shall be treated by the county department of job and family services as follows: 48351  
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(a) The corpus of the trust shall be considered a resource available to the applicant or recipient. 48354  
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(b) Payments from the trust to or for the benefit of the applicant or recipient shall be considered unearned income of the 48356  
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applicant or recipient. 48358

(c) Any other payments from the trust shall be considered an 48359  
improper transfer of resources and shall be subject to rules 48360  
adopted by the department of job and family services governing 48361  
improper transfers of resources. 48362

(3) A trust that meets the requirements of division (D)(1) of 48363  
this section and is an irrevocable trust shall be treated by the 48364  
county department of job and family services as follows: 48365

(a) If there are any circumstances under which payment from 48366  
the trust could be made to or for the benefit of the applicant or 48367  
recipient, including a payment that can be made only in the 48368  
future, the portion from which payments could be made shall be 48369  
considered a resource available to the applicant or recipient. The 48370  
county department of job and family services shall not take into 48371  
account when payments can be made. 48372

(b) Any payment that is actually made to or for the benefit 48373  
of the applicant or recipient from either the corpus or income 48374  
shall be considered unearned income. 48375

(c) If a payment is made to someone other than to the 48376  
applicant or recipient and the payment is not for the benefit of 48377  
the applicant or recipient, the payment shall be considered an 48378  
improper transfer of resources and shall be subject to rules 48379  
adopted by the department of job and family services governing 48380  
improper transfers of resources. 48381

(d) The date of the transfer shall be the later of the date 48382  
of establishment of the trust or the date of the occurrence of the 48383  
event. 48384

(e) When determining the value of the transferred resource 48385  
under this provision, the value of the trust shall be its value on 48386  
the date payment to the applicant or recipient was foreclosed. 48387



(f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust. 48388  
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(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value. 48391  
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(h) Any addition of resources after the foreclosure date shall be considered a separate transfer. 48395  
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(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted by the department of job and family services governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient. 48397  
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(5) The availability of a self-settled trust shall be considered without regard to any of the following: 48403  
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(a) The purpose for which the trust is established; 48405

(b) Whether the trustees have exercised or may exercise discretion under the trust; 48406  
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(c) Any restrictions on when or whether distributions may be made from the trust; 48408  
48409

(d) Any restrictions on the use of distributions from the trust. 48410  
48411

(6) The baseline date for the look-back period for transfers of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medical assistance. The following conditions also apply to look-back periods for transfers of assets involving self-settled trusts: 48412  
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(a) If a self-settled trust is a revocable trust and a 48418  
portion of the trust is distributed to someone other than the 48419  
applicant or recipient for the benefit of someone other than the 48420  
applicant or recipient, the distribution shall be considered an 48421  
improper transfer of resources. The look-back period shall be 48422  
sixty months from the baseline date. The transfer shall be 48423  
considered to have taken place on the date on which the payment to 48424  
someone other than the applicant or recipient was made. 48425

(b) If a self-settled trust is an irrevocable trust and a 48426  
portion of the trust is not distributable to the applicant or 48427  
recipient, the trust shall be treated as an improper transfer of 48428  
resources. The look-back period shall be sixty months from the 48429  
baseline date. The transfer is considered to have been made as of 48430  
the later of the date the trust was established or the date on 48431  
which payment to the applicant or recipient was foreclosed. The 48432  
value of these assets shall not be reduced by any payments from 48433  
the trust that may be made from these unavailable assets at a 48434  
later date. 48435

(c) If a self-settled trust is an irrevocable trust and a 48436  
portion or all of the trust may be disbursed to or for the benefit 48437  
of the applicant or recipient, any payment that is made to another 48438  
person other than the applicant or recipient shall be considered 48439  
an improper transfer of resources. The look-back period is 48440  
thirty-six months from the baseline date. The transfer shall be 48441  
considered to have been made as of the date of payment to the 48442  
other person. 48443

(E) The principal or income from any of the following shall 48444  
be exempt from being counted as a resource by a county department 48445  
of job and family services: 48446

(1)(a) A special needs trust that meets all of the following 48447  
requirements: 48448

(i) The trust contains assets of an applicant or recipient under sixty-five years of age and may contain the assets of other individuals. 48449  
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(ii) The applicant or recipient is disabled as defined in rules adopted by the department of job and family services. 48452  
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(iii) The trust is established for the benefit of the applicant or recipient by a parent, grandparent, legal guardian, or a court. 48454  
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(iv) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medical assistance paid on behalf of the applicant or recipient. 48457  
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(b) If a special needs trust meets the requirements of division (E)(1)(a) of this section and has been established for a disabled applicant or recipient under sixty-five years of age, the exemption for the trust granted pursuant to division (E) of this section shall continue after the disabled applicant or recipient becomes sixty-five years of age if the applicant or recipient continues to be disabled as defined in rules adopted by the department of job and family services. Except for income earned by the trust, the grantor shall not add to or otherwise augment the trust after the applicant or recipient attains sixty-five years of age. An addition or augmentation of the trust by the applicant or recipient with the applicant's own assets after the applicant or recipient attains sixty-five years of age shall be treated as an improper transfer of resources. 48461  
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(c) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income. 48475  
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(d) Transfers of assets to a special needs trust shall not be 48479

treated as an improper transfer of resources. Assets held prior to 48480  
the transfer to the trust shall be considered as countable assets 48481  
or countable income or countable assets and income. 48482

(2)(a) A qualifying income trust that meets all of the 48483  
following requirements: 48484

(i) The trust is composed only of pension, social security, 48485  
and other income to the applicant or recipient, including 48486  
accumulated interest in the trust. 48487

(ii) The income is received by the individual and the right 48488  
to receive the income is not assigned or transferred to the trust. 48489

(iii) The trust requires that on the death of the applicant 48490  
or recipient the state will receive all amounts remaining in the 48491  
trust up to an amount equal to the total amount of medical 48492  
assistance paid on behalf of the applicant or recipient. 48493

(b) No resources shall be used to establish or augment the 48494  
trust. 48495

(c) If an applicant or recipient has irrevocably transferred 48496  
or assigned the applicant's or recipient's right to receive income 48497  
to the trust, the trust shall not be considered a qualifying 48498  
income trust by the county department of job and family services. 48499

(d) Income placed in a qualifying income trust shall not be 48500  
counted in determining an applicant's or recipient's eligibility 48501  
for medical assistance. The recipient of the funds may place any 48502  
income directly into a qualifying income trust without those funds 48503  
adversely affecting the applicant's or recipient's eligibility for 48504  
medical assistance. Income generated by the trust that remains in 48505  
the trust shall not be considered as income to the applicant or 48506  
recipient. 48507

(e) All income placed in a qualifying income trust shall be 48508  
combined with any countable income not placed in the trust to 48509

arrive at a base income figure to be used for spend down 48510  
calculations. 48511

(f) The base income figure shall be used for post-eligibility 48512  
deductions, including personal needs allowance, monthly income 48513  
allowance, family allowance, and medical expenses not subject to 48514  
third party payment. Any income remaining shall be used toward 48515  
payment of patient liability. Payments made from a qualifying 48516  
income trust shall not be combined with the base income figure for 48517  
post-eligibility calculations. 48518

(g) The base income figure shall be used when determining the 48519  
spend down budget for the applicant or recipient. Any income 48520  
remaining after allowable deductions are permitted as provided 48521  
under rules adopted by the department of job and family services 48522  
shall be considered the applicant's or recipient's spend down 48523  
liability. 48524

(3)(a) A pooled trust that meets all of the following 48525  
requirements: 48526

(i) The trust contains the assets of the applicant or 48527  
recipient of any age who is disabled as defined in rules adopted 48528  
by the department of job and family services. 48529

(ii) The trust is established and managed by a nonprofit 48530  
association. 48531

(iii) A separate account is maintained for each beneficiary 48532  
of the trust but, for purposes of investment and management of 48533  
funds, the trust pools the funds in these accounts. 48534

(iv) Accounts in the trust are established by the applicant 48535  
or recipient, the applicant's or recipient's parent, grandparent, 48536  
or legal guardian, or a court solely for the benefit of 48537  
individuals who are disabled. 48538

(v) The trust requires that, to the extent that any amounts 48539

remaining in the beneficiary's account on the death of the 48540  
beneficiary are not retained by the trust, the trust pay to the 48541  
state the amounts remaining in the trust up to an amount equal to 48542  
the total amount of medical assistance paid on behalf of the 48543  
beneficiary. 48544

(b) Cash distributions to the applicant or recipient shall be 48545  
counted as unearned income. All other distributions from the trust 48546  
shall be treated as provided in rules adopted by the department of 48547  
job and family services governing in-kind income. 48548

(c) Transfers of assets to a pooled trust shall not be 48549  
treated as an improper transfer of resources. Assets held prior to 48550  
the transfer to the trust shall be considered as countable assets, 48551  
countable income, or countable assets and income. 48552

(4) A supplemental services trust that meets the requirements 48553  
of section 1339.51 of the Revised Code and to which all of the 48554  
following apply: 48555

(a) A person may establish a supplemental services trust 48556  
pursuant to section 1339.51 of the Revised Code only for another 48557  
person who is eligible to receive services through one of the 48558  
following agencies: 48559

(i) The department of mental retardation and developmental 48560  
disabilities; 48561

(ii) A county board of mental retardation and developmental 48562  
disabilities; 48563

(iii) The department of mental health; 48564

(iv) A board of alcohol, drug addiction, and mental health 48565  
services. 48566

(b) A county department of job and family services shall not 48567  
determine eligibility for another agency's program. An applicant 48568  
or recipient shall do one of the following: 48569

(i) Provide documentation from one of the agencies listed in division (E)(4)(a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the creation of the trust; 48570  
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(ii) Provide an order from a court of competent jurisdiction that states that the applicant or recipient was eligible for services from one of the agencies listed in division (E)(4)(a) of this section at the time of the creation of the trust. 48574  
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(c) At the time the trust is created, the trust principal does not exceed the maximum amount permitted. The maximum amount permitted in calendar year 2002 is two hundred fourteen thousand dollars. Each year thereafter, the maximum amount permitted is the prior year's amount plus two thousand dollars. 48578  
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(d) A county department of job and family services shall review the trust to determine whether it complies with the provisions of section 1339.51 of the Revised Code. 48583  
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(e) Payments from supplemental services trusts shall be exempt as long as the payments are for supplemental services as defined in rules adopted by the department of job and family services. All supplemental services shall be purchased by the trustee and shall not be purchased through direct cash payments to the beneficiary. 48586  
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(f) If a trust is represented as a supplemental services trust and a county department of job and family services determines that the trust does not meet the requirements provided in division (E)(4) of this section and section 1339.51 of the Revised Code, the county department of job and family services shall not consider it an exempt trust. 48592  
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(F)(1) A trust or legal instrument or device similar to a trust shall be considered a trust established by an individual for the benefit of the applicant or recipient if all of the following 48598  
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<u>apply:</u>	48601
<u>(a) The trust is created by a person other than the applicant or recipient.</u>	48602 48603
<u>(b) The trust names the applicant or recipient as a beneficiary.</u>	48604 48605
<u>(c) The trust is funded with assets or property in which the applicant or recipient has never held an ownership interest prior to the establishment of the trust.</u>	48606 48607 48608
<u>(2) Any portion of a trust that meets the requirements of division (F)(1) of this section shall be an available resource only if the trust permits the trustee to expend principal, corpus, or assets of the trust for the applicant's or recipient's medical care, care, comfort, maintenance, health, welfare, general well being, or any combination of these purposes.</u>	48609 48610 48611 48612 48613 48614
<u>(3) A trust that meets the requirements of division (F)(1) of this section shall be considered an available resource even if the trust contains any of the following types of provisions:</u>	48615 48616 48617
<u>(a) A provision that prohibits the trustee from making payments that would supplant or replace medical assistance or other public assistance;</u>	48618 48619 48620
<u>(b) A provision that prohibits the trustee from making payments that would impact or have an effect on the applicant's or recipient's right, ability, or opportunity to receive medical assistance or other public assistance;</u>	48621 48622 48623 48624
<u>(c) A provision that attempts to prevent the trust or its corpus or principal from being counted as an available resource.</u>	48625 48626
<u>(4) A trust that meets the requirements of division (F)(1) of this section shall not be counted as an available resource if at least one of the following circumstances applies:</u>	48627 48628 48629
<u>(a) If a trust contains a clear statement requiring the</u>	48630



trustee to preserve a portion of the trust for another beneficiary 48631  
or remainderman, that portion of the trust shall not be counted as 48632  
an available resource. Terms of a trust that grant discretion to 48633  
preserve a portion of the trust shall not qualify as a clear 48634  
statement requiring the trustee to preserve a portion of the 48635  
trust. 48636

(b) If a trust contains a clear statement requiring the 48637  
trustee to use a portion of the trust for a purpose other than 48638  
medical care, care, comfort, maintenance, welfare, or general well 48639  
being of the applicant or recipient, that portion of the trust 48640  
shall not be counted as an available resource. Terms of a trust 48641  
that grant discretion to limit the use of a portion of the trust 48642  
shall not qualify as a clear statement requiring the trustee to 48643  
use a portion of the trust for a particular purpose. 48644

(c) If a trust contains a clear statement limiting the 48645  
trustee to making fixed periodic payments, the trust shall not be 48646  
counted as an available resource and payments shall be treated in 48647  
accordance with rules adopted by the department of job and family 48648  
services governing income. Terms of a trust that grant discretion 48649  
to limit payments shall not qualify as a clear statement requiring 48650  
the trustee to make fixed periodic payments. 48651

(d) If a trust contains a clear statement that requires the 48652  
trustee to terminate the trust if it is counted as an available 48653  
resource, the trust shall not be counted as an available resource. 48654  
Terms of a trust that grant discretion to terminate the trust do 48655  
not qualify as a clear statement requiring the trustee to 48656  
terminate the trust. 48657

(e) If a person obtains a judgment from a court of competent 48658  
jurisdiction that expressly prevents the trustee from using part 48659  
or all of the trust for the medical care, care, comfort, 48660  
maintenance, welfare, or general well being of the applicant or 48661  
recipient, the trust or that portion of the trust subject to the 48662

court order shall not be counted as a resource. 48663

(f) If a trust is specifically exempt from being counted as an available resource by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as a resource. 48664  
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(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as an available resource. 48667  
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(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as an available resource and payments shall be treated in accordance with rules adopted by the department of job and family services governing income. 48672  
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(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as an available resource. 48679  
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(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (F)(1) of this section, including trusts that are not counted as an available resource, shall be treated as provided in rules adopted by the department of job and family services governing income. Payments to any person other than the applicant or recipient shall not be considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper transfer of assets. 48683  
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Sec. 5111.16. (A) As part of the medicaid program, the 48692

department of job and family services shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system. 48693  
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The department shall implement the care management system in some or all counties and shall designate the medicaid recipients who are required or permitted to participate in the system. In the case of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division (A)(2) of section 5111.01 of the Revised Code, all of the following apply: 48698  
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(1) Not later than July 1, 2004, the department shall designate a portion of the individuals for participation in the care management system. 48704  
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(2) Individuals shall not be designated for participation unless they reside in a county in which individuals who receive medicaid on another basis have been designated for participation. 48707  
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(3) If, pursuant to division (B)(2) of this section, the department requires or permits the individuals to obtain health care services through managed care organizations, the department shall select the managed care organizations to be used by the individuals through a request for proposals process. The department shall issue its initial request for proposals not later than December 31, 2003. 48710  
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(B) Under the care management system, the department may do both of the following: 48717  
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(1) Require or permit participants in the system to obtain health care services from providers designated by the department; 48719  
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(2) Require or permit participants in the system to obtain health care services through managed care organizations under contract with the department pursuant to section 5111.17 of the 48721  
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Revised Code. 48724

(C) The director of job and family services may adopt rules 48725  
in accordance with Chapter 119. of the Revised Code to implement 48726  
this section. 48727

**Sec. 5111.17.** (A) ~~On receipt of a waiver from the United~~ 48728  
~~States department of health and human services of any federal~~ 48729  
~~requirement that would otherwise be violated, the~~ The department 48730  
of job and family services may ~~establish in some or all counties a~~ 48731  
~~managed care system under which designated recipients of medical~~ 48732  
~~assistance are required to obtain health care services from~~ 48733  
~~providers designated by the department.~~ 48734

~~(B) The department may enter into contracts with managed care~~ 48735  
~~organizations to authorize, including health insuring~~ 48736  
corporations, under which the organizations are authorized to 48737  
provide, or arrange for the provision of, health care services to 48738  
medical assistance recipients ~~participating in a~~ who are required 48739  
or permitted to obtain health care services through managed care 48740  
organizations as part of the care management system established 48741  
under ~~this~~ section 5111.16 of the Revised Code. 48742

~~(C) For the purpose of determining the amount the department~~ 48743  
~~pays hospitals under section 5112.08 of the Revised Code and the~~ 48744  
~~amount of disproportionate share hospital payments paid by the~~ 48745  
~~medicare program established under Title XVIII of the "Social~~ 48746  
~~Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ 48747  
~~each managed care organization under contract with the department~~ 48748  
~~to provide hospital services to participating medical assistance~~ 48749  
~~recipients shall keep detailed records for each hospital with~~ 48750  
~~which it contracts about the cost to the hospital of providing the~~ 48751  
~~care, payments made by the organization to the hospital for the~~ 48752  
~~care, utilization of hospital services by medical assistance~~ 48753  
~~recipients participating in managed care, and other utilization~~ 48754

~~data required by the department.~~ 48755

~~(D)~~(B) The director of job and family services may adopt 48756  
rules in accordance with Chapter 119. of the Revised Code to 48757  
implement this section. 48758

**Sec. 5111.171.** (A) The department of job and family services 48759  
may provide financial incentive awards to managed care 48760  
organizations ~~that~~ under contract with the department ~~under~~ 48761  
pursuant to section 5111.17 of the Revised Code ~~to provide health~~ 48762  
~~care services to participating medical assistance recipients and~~ 48763  
that meet or exceed performance standards specified in provider 48764  
agreements or rules adopted by the department. The department may 48765  
specify in a contract with a managed care organization the amounts 48766  
of financial incentive awards, methodology for distributing 48767  
awards, types of awards, and standards for administration by the 48768  
department. 48769

(B) There is hereby created in the state treasury the health 48770  
care compliance fund. The fund shall consist of all fines imposed 48771  
on and collected from managed care organizations for failure to 48772  
~~meet~~ meet performance standards or other requirements specified 48773  
in provider agreements or rules adopted by the department. All 48774  
investment earnings of the fund shall be credited to the fund. 48775  
Moneys credited to the fund shall be used solely for the following 48776  
purposes: 48777

(1) To reimburse managed care organizations that have paid 48778  
fines for failures to meet performance standards or other 48779  
requirements and that have come into compliance by meeting 48780  
requirements as specified by the department; 48781

(2) To provide financial incentive awards established 48782  
pursuant to division (A) of this section and specified in 48783  
contracts between managed care organizations and the department. 48784

Sec. 5111.172. When contracting under section 5111.17 of the Revised Code with a managed care organization that is a health insuring corporation, the department of job and family services may require the health insuring corporation to provide coverage of prescription drugs for medicaid recipients enrolled in the health insuring corporation. In providing the required coverage, the health insuring corporation may, subject to the department's approval, use strategies for the management of drug utilization.

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 48815  
accordance with Chapter 119. of the Revised Code. 48816

The appointment of a temporary manager does not cause the 48817  
managed care organization to lose the right to appeal, in 48818  
accordance with Chapter 119. of the Revised Code, any proposed 48819  
termination or any decision not to renew the managed care 48820  
organization's medicaid provider agreement or the right to 48821  
initiate the sale of the managed care organization or its assets. 48822

In addition to the rules required to be adopted under this 48823  
section, the director may adopt any other rules necessary to 48824  
implement this section. The rules shall be adopted in accordance 48825  
with Chapter 119. of the Revised Code. 48826

**Sec. 5111.174.** The department of job and family services may 48827  
disenroll some or all medicaid recipients enrolled in a managed 48828  
care organization under contract with the department pursuant to 48829  
section 5111.17 of the Revised Code if the department proposes to 48830  
terminate or not to renew the contract and determines that the 48831  
recipients' access to medically necessary services is jeopardized 48832  
by the proposal to terminate or not to renew the contract. The 48833  
disenrollment is not subject to Chapter 119. of the Revised Code, 48834  
but the managed care organization may request a reconsideration of 48835  
the disenrollment. Reconsiderations shall be requested and 48836  
conducted in accordance with rules the director of job and family 48837  
services shall adopt in accordance with Chapter 119. of the 48838  
Revised Code. The request for, or conduct of, a reconsideration 48839  
regarding a proposed disenrollment shall not delay the 48840  
disenrollment. 48841

In addition to the rules required to be adopted under this 48842  
section, the director may adopt any other rules necessary to 48843  
implement this section. The rules shall be adopted in accordance 48844  
with Chapter 119. of the Revised Code. 48845

Sec. 5111.175. For the purpose of determining the amount the 48846  
department of job and family services pays hospitals under section 48847  
5112.08 of the Revised Code and the amount of disproportionate 48848  
share hospital payments paid by the medicare program established 48849  
under Title XVIII of the "Social Security Act," 79 Stat. 286 48850  
(1965), 42 U.S.C. 1396n, as amended, a managed care organization 48851  
under contract with the department pursuant to section 5111.17 of 48852  
the Revised Code authorizing the organization to provide, or 48853  
arrange for the provision of, hospital services to medicaid 48854  
recipients shall keep detailed records for each hospital with 48855  
which it contracts about the cost to the hospital of providing the 48856  
services, payments made by the organization to the hospital for 48857  
the services, utilization of hospital services by medicaid 48858  
recipients enrolled in the organization, and other utilization 48859  
data required by the department. 48860

Sec. 5111.20. As used in sections 5111.20 to ~~5111.32~~ 5111.34 48861  
of the Revised Code: 48862

(A) "Allowable costs" are those costs determined by the 48863  
department of job and family services to be reasonable and do not 48864  
include fines paid under sections 5111.35 to 5111.61 and section 48865  
5111.99 of the Revised Code. 48866

(B) "Capital costs" means costs of ownership and nonextensive 48867  
renovation. 48868

(1) "Cost of ownership" means the actual expense incurred for 48869  
all of the following: 48870

(a) Depreciation and interest on any capital assets that cost 48871  
five hundred dollars or more per item, including the following: 48872

(i) Buildings; 48873

(ii) Building improvements that are not approved as 48874



nonextensive renovations under section 5111.25 or 5111.251 of the Revised Code;	48875 48876
(iii) Equipment;	48877
(iv) Extensive renovations;	48878
(v) Transportation equipment.	48879
(b) Amortization and interest on land improvements and leasehold improvements;	48880 48881
(c) Amortization of financing costs;	48882
(d) Except as provided in division (I) of this section, lease and rent of land, building, and equipment.	48883 48884
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.	48885 48886 48887
(2) "Costs of nonextensive renovation" means the actual expense incurred for depreciation or amortization and interest on renovations that are not extensive renovations.	48888 48889 48890
(C) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.	48891 48892
(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.	48893 48894 48895 48896 48897
(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,	48898 48899 48900 48901 48902 48903 48904

"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.

(2) If a facility adds nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure, it will have a different date of licensure for the additional beds or extensively renovated portion of the facility, unless the beds are added in a space that was constructed at the same time as the previously licensed beds but was not licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time.

(F) "Desk-reviewed" means that costs as reported on a cost report submitted under section 5111.26 of the Revised Code have been subjected to a desk review under division (A) of section 5111.27 of the Revised Code and preliminarily determined to be allowable costs.

(G) "Direct care costs" means all of the following:

(1)(a) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the facility;

(b) Costs for direct care staff, administrative nursing staff, medical directors, social services staff, activities staff, psychologists and psychology assistants, social workers and counselors, habilitation staff, qualified mental retardation professionals, program directors, respiratory therapists,

habilitation supervisors, and except as provided in division	48936
(G)(2) of this section, other persons holding degrees qualifying	48937
them to provide therapy;	48938
(c) Costs of purchased nursing services;	48939
(d) Costs of quality assurance;	48940
(e) Costs of training and staff development, employee	48941
benefits, payroll taxes, and workers' compensation premiums or	48942
costs for self-insurance claims and related costs as specified in	48943
rules adopted by the director of job and family services in	48944
accordance with Chapter 119. of the Revised Code, for personnel	48945
listed in divisions (G)(1)(a), (b), and (d) of this section;	48946
(f) Costs of consulting and management fees related to direct	48947
care;	48948
(g) Allocated direct care home office costs.	48949
(2) In addition to the costs specified in division (G)(1) of	48950
this section, for intermediate care facilities for the mentally	48951
retarded only, direct care costs include both of the following:	48952
(a) Costs for physical therapists and physical therapy	48953
assistants, occupational therapists and occupational therapy	48954
assistants, speech therapists, and audiologists;	48955
(b) Costs of training and staff development, employee	48956
benefits, payroll taxes, and workers' compensation premiums or	48957
costs for self-insurance claims and related costs as specified in	48958
rules adopted by the director of job and family services in	48959
accordance with Chapter 119. of the Revised Code, for personnel	48960
listed in division (G)(2)(a) of this section.	48961
(3) Costs of other direct-care resources that are specified	48962
as direct care costs in rules adopted by the director of job and	48963
family services in accordance with Chapter 119. of the Revised	48964
Code.	48965

(H) "Fiscal year" means the fiscal year of this state, as 48966  
specified in section 9.34 of the Revised Code. 48967

(I) "Indirect care costs" means all reasonable costs other 48968  
than direct care costs, other protected costs, or capital costs. 48969  
"Indirect care costs" includes but is not limited to costs of 48970  
habilitation supplies, pharmacy consultants, medical and 48971  
habilitation records, program supplies, incontinence supplies, 48972  
food, enterals, dietary supplies and personnel, laundry, 48973  
housekeeping, security, administration, liability insurance, 48974  
bookkeeping, purchasing department, human resources, 48975  
communications, travel, dues, license fees, subscriptions, home 48976  
office costs not otherwise allocated, legal services, accounting 48977  
services, minor equipment, maintenance and repairs, help-wanted 48978  
advertising, informational advertising, ~~consumer satisfaction~~ 48979  
~~survey fees paid under section 173.55 of the Revised Code,~~ 48980  
start-up costs, organizational expenses, other interest, property 48981  
insurance, employee training and staff development, employee 48982  
benefits, payroll taxes, and workers' compensation premiums or 48983  
costs for self-insurance claims and related costs as specified in 48984  
rules adopted by the director of job and family services in 48985  
accordance with Chapter 119. of the Revised Code, for personnel 48986  
listed in this division. Notwithstanding division (B)(1) of this 48987  
section, "indirect care costs" also means the cost of equipment, 48988  
including vehicles, acquired by operating lease executed before 48989  
December 1, 1992, if the costs are reported as administrative and 48990  
general costs on the facility's cost report for the cost reporting 48991  
period ending December 31, 1992. 48992

(J) "Inpatient days" means all days during which a resident, 48993  
regardless of payment source, occupies a bed in a nursing facility 48994  
or intermediate care facility for the mentally retarded that is 48995  
included in the facility's certified capacity under Title XIX of 48996  
the "Social Security Act," 49 Stat. 610 (1935), 42 U.S.C.A. 301, 48997

as amended. Therapeutic or hospital leave days for which payment 48998  
is made under section 5111.33 of the Revised Code are considered 48999  
inpatient days proportionate to the percentage of the facility's 49000  
per resident per day rate paid for those days. 49001

(K) "Intermediate care facility for the mentally retarded" 49002  
means an intermediate care facility for the mentally retarded 49003  
certified as in compliance with applicable standards for the 49004  
medical assistance program by the director of health in accordance 49005  
with Title XIX of the "Social Security Act." 49006

(L) "Maintenance and repair expenses" means, except as 49007  
provided in division ~~(X)~~(Y)(2) of this section, expenditures that 49008  
are necessary and proper to maintain an asset in a normally 49009  
efficient working condition and that do not extend the useful life 49010  
of the asset two years or more. "Maintenance and repair expenses" 49011  
includes but is not limited to the cost of ordinary repairs such 49012  
as painting and wallpapering. 49013

(M) "Nursing facility" means a facility, or a distinct part 49014  
of a facility, that is certified as a nursing facility by the 49015  
director of health in accordance with Title XIX of the "Social 49016  
Security Act," and is not an intermediate care facility for the 49017  
mentally retarded. "Nursing facility" includes a facility, or a 49018  
distinct part of a facility, that is certified as a nursing 49019  
facility by the director of health in accordance with Title XIX of 49020  
the "Social Security Act," and is certified as a skilled nursing 49021  
facility by the director in accordance with Title XVIII of the 49022  
"Social Security Act." 49023

(N) "Operator" means the person or government entity 49024  
responsible for the daily operating and management decisions for a 49025  
nursing facility or intermediate care facility for the mentally 49026  
retarded. 49027

(O) "Other protected costs" means costs for medical supplies; 49028

real estate, franchise, and property taxes; natural gas, fuel oil, 49029  
water, electricity, sewage, and refuse and hazardous medical waste 49030  
collection; allocated other protected home office costs; and any 49031  
additional costs defined as other protected costs in rules adopted 49032  
by the director of job and family services in accordance with 49033  
Chapter 119. of the Revised Code. 49034

~~(O)~~(P) "Owner" means any person or government entity that has 49035  
at least five per cent ownership or interest, either directly, 49036  
indirectly, or in any combination, in any of the following 49037  
regarding a nursing facility or intermediate care facility for the 49038  
mentally retarded; 49039

(a) The land on which the facility is located; 49040

(b) The structure in which the facility is located; 49041

(c) Any mortgage, contract for deed, or other obligation 49042  
secured in whole or in part by the land or structure on or in 49043  
which the facility is located; 49044

(d) Any lease or sublease of the land or structure on or in 49045  
which the facility is located. 49046

(2) "Owner" does not mean a holder of a debenture or bond 49047  
related to the nursing facility or intermediate care facility for 49048  
the mentally retarded and purchased at public issue or a regulated 49049  
lender that has made a loan related to the facility unless the 49050  
holder or lender operates the facility directly or through a 49051  
subsidiary. 49052

~~(P)~~(O) "Patient" includes "resident." 49053

~~(O)~~(R) Except as provided in divisions ~~(O)~~(R)(1) and (2) of 49054  
this section, "per diem" means a nursing facility's or 49055  
intermediate care facility for the mentally retarded's actual, 49056  
allowable costs in a given cost center in a cost reporting period, 49057  
divided by the facility's inpatient days for that cost reporting 49058

period. 49059

(1) When calculating indirect care costs for the purpose of 49060  
establishing rates under section 5111.24 or 5111.241 of the 49061  
Revised Code, "per diem" means a facility's actual, allowable 49062  
indirect care costs in a cost reporting period divided by the 49063  
greater of the facility's inpatient days for that period or the 49064  
number of inpatient days the facility would have had during that 49065  
period if its occupancy rate had been eighty-five per cent. 49066

(2) When calculating capital costs for the purpose of 49067  
establishing rates under section 5111.25 or 5111.251 of the 49068  
Revised Code, "per diem" means a facility's actual, allowable 49069  
capital costs in a cost reporting period divided by the greater of 49070  
the facility's inpatient days for that period or the number of 49071  
inpatient days the facility would have had during that period if 49072  
its occupancy rate had been ninety-five per cent. 49073

~~(R)~~(S) "Provider" means a person or government entity that 49074  
operates a nursing facility or intermediate care facility for the 49075  
mentally retarded under a provider agreement. 49076

~~(S)~~(T) "Provider agreement" means a contract between the 49077  
department of job and family services and a nursing facility or 49078  
intermediate care facility for the mentally retarded for the 49079  
provision of nursing facility services or intermediate care 49080  
facility services for the mentally retarded under the medical 49081  
assistance program. 49082

~~(T)~~(U) "Purchased nursing services" means services that are 49083  
provided in a nursing facility by registered nurses, licensed 49084  
practical nurses, or nurse aides who are not employees of the 49085  
facility. 49086

~~(U)~~(V) "Reasonable" means that a cost is an actual cost that 49087  
is appropriate and helpful to develop and maintain the operation 49088  
of patient care facilities and activities, including normal 49089

standby costs, and that does not exceed what a prudent buyer pays 49090  
for a given item or services. Reasonable costs may vary from 49091  
provider to provider and from time to time for the same provider. 49092

~~(V)~~(W) "Related party" means an individual or organization 49093  
that, to a significant extent, has common ownership with, is 49094  
associated or affiliated with, has control of, or is controlled 49095  
by, the provider. 49096

(1) An individual who is a relative of an owner is a related 49097  
party. 49098

(2) Common ownership exists when an individual or individuals 49099  
possess significant ownership or equity in both the provider and 49100  
the other organization. Significant ownership or equity exists 49101  
when an individual or individuals possess five per cent ownership 49102  
or equity in both the provider and a supplier. Significant 49103  
ownership or equity is presumed to exist when an individual or 49104  
individuals possess ten per cent ownership or equity in both the 49105  
provider and another organization from which the provider 49106  
purchases or leases real property. 49107

(3) Control exists when an individual or organization has the 49108  
power, directly or indirectly, to significantly influence or 49109  
direct the actions or policies of an organization. 49110

(4) An individual or organization that supplies goods or 49111  
services to a provider shall not be considered a related party if 49112  
all of the following conditions are met: 49113

(a) The supplier is a separate bona fide organization. 49114

(b) A substantial part of the supplier's business activity of 49115  
the type carried on with the provider is transacted with others 49116  
than the provider and there is an open, competitive market for the 49117  
types of goods or services the supplier furnishes. 49118

(c) The types of goods or services are commonly obtained by 49119



other nursing facilities or intermediate care facilities for the 49120  
mentally retarded from outside organizations and are not a basic 49121  
element of patient care ordinarily furnished directly to patients 49122  
by the facilities. 49123

(d) The charge to the provider is in line with the charge for 49124  
the goods or services in the open market and no more than the 49125  
charge made under comparable circumstances to others by the 49126  
supplier. 49127

~~(W)~~(X) "Relative of owner" means an individual who is related 49128  
to an owner of a nursing facility or intermediate care facility 49129  
for the mentally retarded by one of the following relationships: 49130

(1) Spouse; 49131

(2) Natural parent, child, or sibling; 49132

(3) Adopted parent, child, or sibling; 49133

(4) Step-parent, step-child, step-brother, or step-sister; 49134

(5) Father-in-law, mother-in-law, son-in-law, 49135  
daughter-in-law, brother-in-law, or sister-in-law; 49136

(6) Grandparent or grandchild; 49137

(7) Foster caregiver, foster child, foster brother, or foster 49138  
sister. 49139

~~(X)~~(Y) "Renovation" and "extensive renovation" mean: 49140

(1) Any betterment, improvement, or restoration of a nursing 49141  
facility or intermediate care facility for the mentally retarded 49142  
started before July 1, 1993, that meets the definition of a 49143  
renovation or extensive renovation established in rules adopted by 49144  
the director of job and family services in effect on December 22, 49145  
1992. 49146

(2) In the case of betterments, improvements, and 49147  
restorations of nursing facilities and intermediate care 49148

facilities for the mentally retarded started on or after July 1, 49149  
1993: 49150

(a) "Renovation" means the betterment, improvement, or 49151  
restoration of a nursing facility or intermediate care facility 49152  
for the mentally retarded beyond its current functional capacity 49153  
through a structural change that costs at least five hundred 49154  
dollars per bed. A renovation may include betterment, improvement, 49155  
restoration, or replacement of assets that are affixed to the 49156  
building and have a useful life of at least five years. A 49157  
renovation may include costs that otherwise would be considered 49158  
maintenance and repair expenses if they are an integral part of 49159  
the structural change that makes up the renovation project. 49160  
"Renovation" does not mean construction of additional space for 49161  
beds that will be added to a facility's licensed or certified 49162  
capacity. 49163

(b) "Extensive renovation" means a renovation that costs more 49164  
than sixty-five per cent and no more than eighty-five per cent of 49165  
the cost of constructing a new bed and that extends the useful 49166  
life of the assets for at least ten years. 49167

For the purposes of division ~~(X)~~(Y)(2) of this section, the 49168  
cost of constructing a new bed shall be considered to be forty 49169  
thousand dollars, adjusted for the estimated rate of inflation 49170  
from January 1, 1993, to the end of the calendar year during which 49171  
the renovation is completed, using the consumer price index for 49172  
shelter costs for all urban consumers for the north central 49173  
region, as published by the United States bureau of labor 49174  
statistics. 49175

The department of job and family services may treat a 49176  
renovation that costs more than eighty-five per cent of the cost 49177  
of constructing new beds as an extensive renovation if the 49178  
department determines that the renovation is more prudent than 49179  
construction of new beds. 49180

Sec. 5111.206. (A) As used in this section, "nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 49181  
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(B) To the extent funds are available, the director of job and family services may establish the Ohio access success project to help medicaid recipients make the transition from residing in a nursing facility to residing in a community setting. The program may be established as a separate non-medicaid program or integrated into a new or existing Medicaid home and community-based services program established under a waiver approved by the federal centers for medicare and medicaid services. The department may limit the number of program participants. 49184  
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To be eligible for benefits under the project, a medicaid recipient must satisfy all of the following requirements: 49194  
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(1) Be a recipient of medicaid-funded nursing facility care, at the time of applying for the benefits; 49196  
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(2) Have resided continuously in a nursing facility since January 1, 2002; 49198  
49199

(3) Need the level of care provided by nursing facilities; 49200

(4) For participation in a non-medicaid program, receive services to remain in the community with a projected cost not exceeding eighty per cent of the average monthly medicaid cost of a medicaid recipient in a nursing facility; 49201  
49202  
49203  
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(5) For participation in a program established under a home and community-based services waiver, meet waiver enrollment criteria. 49205  
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49207

(C) If the director establishes the Ohio access success project, the benefits provided under the project may include payment of all of the following: 49208  
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<u>(1) The first month's rent in a community setting;</u>	49211
<u>(2) Rental deposits;</u>	49212
<u>(3) Utility deposits;</u>	49213
<u>(4) Moving expenses;</u>	49214
<u>(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting.</u>	49215 49216 49217
<u>(D) If the project is established as a non-medicaid program, no participant may receive more than two thousand dollars worth of benefits under the project.</u>	49218 49219 49220
<u>(E) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to create a medicaid home and community-based services waiver programs to serve individuals who meet the criteria for participation in the Ohio access success project. The director may adopt rules under Chapter 119. of the Revised Code for the administration and operation of the program.</u>	49221 49222 49223 49224 49225 49226 49227 49228
<b>Sec. 5111.21.</b> (A) Subject to sections 5111.01, 5111.011, 5111.012, <del>and</del> 5111.02, <u>and 5111.6810</u> of the Revised Code, the department of job and family services shall pay, as provided in sections 5111.20 to 5111.32 of the Revised Code, the reasonable costs of services provided to an eligible medicaid recipient by an eligible nursing facility or intermediate care facility for the mentally retarded.	49229 49230 49231 49232 49233 49234 49235
In order to be eligible for medical assistance payments, <u>an operator of</u> a nursing facility or intermediate care facility for the mentally retarded shall do all of the following:	49236 49237 49238
(1) Enter into a provider agreement with the department as	49239

provided in section 5111.22, 5111.671, or 5111.672 of the Revised Code; 49240  
49241

(2) Apply for and maintain a valid license to operate if so required by law; 49242  
49243

(3) Comply with all applicable state and federal laws and rules. 49244  
49245

(B) ~~A~~ An operator of a nursing facility that elects to obtain and maintain eligibility for payments under the ~~medicare~~ medicaid program established by ~~Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended~~ may shall qualify all ~~or part of the facility of the facility's~~ medicaid-certified beds in the medicare program established by Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement. 49246  
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**Sec. 5111.22.** A provider agreement between the department of job and family services and an operator of a nursing facility or intermediate care facility for the mentally retarded shall contain the following provisions: 49256  
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(A) The department agrees to: 49260

~~(1) Make~~ make payments to the nursing facility or intermediate care facility for the mentally retarded for patients eligible for services under the medical assistance program as provided in sections 5111.20 to 5111.32 of the Revised Code. No payment shall be made for the day a recipient is discharged from the facility. 49261  
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~~(2) Provide copies of rules governing the facility's participation as a provider in the medical assistance program. Whenever the director of job and family services files a proposed~~ 49267  
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~~rule or proposed rule in revised form under division (D) of 49270  
section 111.15 or division (B) of section 119.03 of the Revised 49271  
Code, the department shall provide the facility with one copy of 49272  
such rule. In the case of a rescission or proposed rescission of a 49273  
rule, the department may provide the rule number and title instead 49274  
of the rules rescinded or proposed to be rescinded. 49275~~

(B) The ~~provider~~ operator agrees to: 49276

(1) Maintain eligibility as provided in section 5111.21 of 49277  
the Revised Code; 49278

(2) Keep records relating to a cost reporting period for the 49279  
greater of seven years after the cost report is filed or, if the 49280  
department issues an audit report in accordance with division (B) 49281  
of section 5111.27 of the Revised Code, six years after all appeal 49282  
rights relating to the audit report are exhausted; 49283

(3) File reports as required by the department; 49284

(4) Open all records relating to the costs of its services 49285  
for inspection and audit by the department; 49286

(5) Open its premises for inspection by the department, the 49287  
department of health, and any other state or local authority 49288  
having authority to inspect; 49289

(6) Supply to the department such information as it requires 49290  
concerning the facility's services to patients who are or are 49291  
eligible to be medicaid recipients; 49292

(7) Comply with section 5111.31 of the Revised Code. 49293

The provider agreement may contain other provisions that are 49294  
consistent with law and considered necessary by the department. 49295

A provider agreement shall be effective for no longer than 49296  
twelve months, except that if federal statute or regulations 49297  
authorize a longer term, it may be effective for a longer term so 49298  
authorized. A provider agreement may be renewed only if the 49299

facility is certified by the department of health for 49300  
participation in the medicaid program. 49301

The department of job and family services, in accordance with 49302  
rules adopted by the director pursuant to Chapter 119. of the 49303  
Revised Code, may elect not to enter into, not to renew, or to 49304  
terminate a provider agreement when the department determines that 49305  
such an agreement would not be in the best interests of the 49306  
recipients or of the state. 49307

Sec. 5111.222. An operator of a nursing facility or 49308  
intermediate care facility for the mentally retarded may enter 49309  
into provider agreements for more than one nursing facility or 49310  
intermediate care facility for the mentally retarded. 49311

**Sec. 5111.25.** (A) The department of job and family services 49312  
shall pay each eligible nursing facility a per resident per day 49313  
rate for its reasonable capital costs established prospectively 49314  
each fiscal year for each facility. Except as otherwise provided 49315  
in sections 5111.20 to 5111.32 of the Revised Code, the rate shall 49316  
be based on the facility's capital costs for the calendar year 49317  
preceding the fiscal year in which the rate will be paid. The rate 49318  
shall equal the sum of divisions (A)(1) to (3) of this section: 49319

(1) The lesser of the following: 49320

(a) Eighty-eight and sixty-five one-hundredths per cent of 49321  
the facility's desk-reviewed, actual, allowable, per diem cost of 49322  
ownership and eighty-five per cent of the facility's actual, 49323  
allowable, per diem cost of nonextensive renovation determined 49324  
under division (F) of this section; 49325

(b) Eighty-eight and sixty-five one-hundredths per cent of 49326  
the following limitation: 49327

(i) For the fiscal year beginning July 1, 1993, sixteen 49328  
dollars per resident day; 49329

(ii) For the fiscal year beginning July 1, 1994, sixteen 49330  
dollars per resident day, adjusted to reflect the rate of 49331  
inflation for the twelve-month period beginning July 1, 1992, and 49332  
ending June 30, 1993, using the consumer price index for shelter 49333  
costs for all urban consumers for the north central region, 49334  
published by the United States bureau of labor statistics; 49335

(iii) For subsequent fiscal years, the limitation in effect 49336  
during the previous fiscal year, adjusted to reflect the rate of 49337  
inflation for the twelve-month period beginning on the first day 49338  
of July for the calendar year preceding the calendar year that 49339  
precedes the fiscal year and ending on the following thirtieth day 49340  
of June, using the consumer price index for shelter costs for all 49341  
urban consumers for the north central region, published by the 49342  
United States bureau of labor statistics. 49343

(2) Any efficiency incentive determined under division (D) of 49344  
this section; 49345

(3) Any amounts for return on equity determined under 49346  
division (H) of this section. 49347

Buildings shall be depreciated using the straight line method 49348  
over forty years or over a different period approved by the 49349  
department. Components and equipment shall be depreciated using 49350  
the straight-line method over a period designated in rules adopted 49351  
by the director of job and family services in accordance with 49352  
Chapter 119. of the Revised Code, consistent with the guidelines 49353  
of the American hospital association, or over a different period 49354  
approved by the department. Any rules adopted under this division 49355  
that specify useful lives of buildings, components, or equipment 49356  
apply only to assets acquired on or after July 1, 1993. 49357  
Depreciation for costs paid or reimbursed by any government agency 49358  
shall not be included in cost of ownership or renovation unless 49359  
that part of the payment under sections 5111.20 to 5111.32 of the 49360



Revised Code is used to reimburse the government agency. 49361

(B) The capital cost basis of nursing facility assets shall 49362  
be determined in the following manner: 49363

(1) For purposes of calculating the rate to be paid for the 49364  
fiscal year beginning July 1, 1993, for facilities with dates of 49365  
licensure on or before June 30, 1993, the capital cost basis shall 49366  
be equal to the following: 49367

(a) For facilities that have not had a change of ownership 49368  
during the period beginning January 1, 1993, and ending June 30, 49369  
1993, the desk-reviewed, actual, allowable capital cost basis that 49370  
is listed on the facility's cost report for the cost reporting 49371  
period ending December 31, 1992, plus the actual, allowable 49372  
capital cost basis of any assets constructed or acquired after 49373  
December 31, 1992, but before July 1, 1993, if the aggregate 49374  
capital costs of those assets would increase the facility's rate 49375  
for capital costs by twenty or more cents per resident per day. 49376

(b) For facilities that have a date of licensure or had a 49377  
change of ownership during the period beginning January 1, 1993, 49378  
and ending June 30, 1993, the actual, allowable capital cost basis 49379  
of the person or government entity that owns the facility on June 49380  
30, 1993. 49381

Capital cost basis shall be calculated as provided in 49382  
division (B)(1) of this section subject to approval by the United 49383  
States health care financing administration of any necessary 49384  
amendment to the state plan for providing medical assistance. 49385

The department shall include the actual, allowable capital 49386  
cost basis of assets constructed or acquired during the period 49387  
beginning January 1, 1993, and ending June 30, 1993, in the 49388  
calculation for the facility's rate effective July 1, 1993, if the 49389  
aggregate capital costs of the assets would increase the 49390  
facility's rate by twenty or more cents per resident per day and 49391

the facility provides the department with sufficient documentation 49392  
of the costs before June 1, 1993. If the facility provides the 49393  
documentation after that date, the department shall adjust the 49394  
facility's rate to reflect the costs of the assets one month after 49395  
the first day of the month after the department receives the 49396  
documentation. 49397

(2) Except as provided in division (B)(4) of this section, 49398  
for purposes of calculating the rates to be paid for fiscal years 49399  
beginning after June 30, 1994, for facilities with dates of 49400  
licensure on or before June 30, 1993, the capital cost basis of 49401  
each asset shall be equal to the desk-reviewed, actual, allowable, 49402  
capital cost basis that is listed on the facility's cost report 49403  
for the calendar year preceding the fiscal year during which the 49404  
rate will be paid. 49405

(3) For facilities with dates of licensure after June 30, 49406  
1993, the capital cost basis shall be determined in accordance 49407  
with the principles of the medicare program established under 49408  
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 49409  
U.S.C.A. 301, as amended, except as otherwise provided in sections 49410  
5111.20 to 5111.32 of the Revised Code. 49411

(4) Except as provided in division (B)(5) of this section, if 49412  
a provider transfers an interest in a facility to another provider 49413  
after June 30, 1993, there shall be no increase in the capital 49414  
cost basis of the asset if the providers are related parties. If 49415  
the providers are not related parties or if they are related 49416  
parties and division (B)(5) of this section requires the 49417  
adjustment of the capital cost basis under this division, the 49418  
basis of the asset shall be adjusted by the lesser of the 49419  
following: 49420

(a) One-half of the change in construction costs during the 49421  
time that the transferor held the asset, as calculated by the 49422  
department of job and family services using the "Dodge building 49423

cost indexes, northeastern and north central states," published by 49424  
Marshall and Swift; 49425

(b) One-half of the change in the consumer price index for 49426  
all items for all urban consumers, as published by the United 49427  
States bureau of labor statistics, during the time that the 49428  
transferor held the asset. 49429

(5) If a provider transfers an interest in a facility to 49430  
another provider who is a related party, the capital cost basis of 49431  
the asset shall be adjusted as specified in division (B)(4) of 49432  
this section for a transfer to a provider that is not a related 49433  
party if all of the following conditions are met: 49434

(a) The related party is a relative of owner; 49435

(b) Except as provided in division (B)(5)(c)(ii) of this 49436  
section, the provider making the transfer retains no ownership 49437  
interest in the facility; 49438

(c) The department of job and family services determines that 49439  
the transfer is an arm's length transaction pursuant to rules the 49440  
department shall adopt in accordance with Chapter 119. of the 49441  
Revised Code no later than December 31, 2000. The rules shall 49442  
provide that a transfer is an arm's length transaction if all of 49443  
the following apply: 49444

(i) Once the transfer goes into effect, the provider that 49445  
made the transfer has no direct or indirect interest in the 49446  
provider that acquires the facility or the facility itself, 49447  
including interest as an owner, officer, director, employee, 49448  
independent contractor, or consultant, but excluding interest as a 49449  
creditor. 49450

(ii) The provider that made the transfer does not reacquire 49451  
an interest in the facility except through the exercise of a 49452  
creditor's rights in the event of a default. If the provider 49453  
reacquires an interest in the facility in this manner, the 49454

department shall treat the facility as if the transfer never 49455  
occurred when the department calculates its reimbursement rates 49456  
for capital costs. 49457

(iii) The transfer satisfies any other criteria specified in 49458  
the rules. 49459

(d) Except in the case of hardship caused by a catastrophic 49460  
event, as determined by the department, or in the case of a 49461  
provider making the transfer who is at least sixty-five years of 49462  
age, not less than twenty years have elapsed since, for the same 49463  
facility, the capital cost basis was adjusted most recently under 49464  
division (B)(5) of this section or actual, allowable cost of 49465  
ownership was determined most recently under division (C)(9) of 49466  
this section. 49467

(C) As used in this division, "lease expense" means lease 49468  
payments in the case of an operating lease and depreciation 49469  
expense and interest expense in the case of a capital lease. As 49470  
used in this division, "new lease" means a lease, to a different 49471  
lessee, of a nursing facility that previously was operated under a 49472  
lease. 49473

(1) Subject to the limitation specified in division (A)(1) of 49474  
this section, for a lease of a facility that was effective on May 49475  
27, 1992, the entire lease expense is an actual, allowable cost of 49476  
ownership during the term of the existing lease. The entire lease 49477  
expense also is an actual, allowable cost of ownership if a lease 49478  
in existence on May 27, 1992, is renewed under either of the 49479  
following circumstances: 49480

(a) The renewal is pursuant to a renewal option that was in 49481  
existence on May 27, 1992; 49482

(b) The renewal is for the same lease payment amount and 49483  
between the same parties as the lease in existence on May 27, 49484  
1992. 49485

(2) Subject to the limitation specified in division (A)(1) of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable cost of ownership shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by the lesser of the following amounts:

(a) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(3) Subject to the limitation specified in division (A)(1) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable cost of ownership shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and before July 1, 1993, actual, allowable cost of ownership shall include the lesser of the annual lease expense or the sum of the following:

(a) The annual depreciation expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis;

(b) The greater of the lessor's actual annual amortization of

financing costs and interest expense at the inception of the lease 49517  
or the imputed interest expense calculated at the inception of the 49518  
lease using seventy per cent of the lessor's historical capital 49519  
asset cost basis. 49520

(4) Subject to the limitation specified in division (A)(1) of 49521  
this section, for a lease of a facility with a date of licensure 49522  
on or after May 27, 1992, that was not initially operated under a 49523  
lease and has been in existence for ten years, actual, allowable 49524  
cost of ownership shall include the lesser of the annual lease 49525  
expense or the annual depreciation expense and imputed interest 49526  
expense that would be calculated at the inception of the lease 49527  
using the entire historical capital asset cost basis of the 49528  
lessor, adjusted by the lesser of the following: 49529

(a) One-half of the change in construction costs during the 49530  
time the lessor held each asset until the beginning of the lease, 49531  
as calculated by the department using the "Dodge building cost 49532  
indexes, northeastern and north central states," published by 49533  
Marshall and Swift; 49534

(b) One-half of the change in the consumer price index for 49535  
all items for all urban consumers, as published by the United 49536  
States bureau of labor statistics, during the time the lessor held 49537  
each asset until the beginning of the lease. 49538

(5) Subject to the limitation specified in division (A)(1) of 49539  
this section, for a new lease of a facility that was operated 49540  
under a lease on May 27, 1992, actual, allowable cost of ownership 49541  
shall include the lesser of the annual new lease expense or the 49542  
annual old lease payment. If the old lease was in effect for ten 49543  
years or longer, the old lease payment from the beginning of the 49544  
old lease shall be adjusted by the lesser of the following: 49545

(a) One-half of the change in construction costs from the 49546  
beginning of the old lease to the beginning of the new lease, as 49547

calculated by the department using the "Dodge building cost 49548  
indexes, northeastern and north central states," published by 49549  
Marshall and Swift; 49550

(b) One-half of the change in the consumer price index for 49551  
all items for all urban consumers, as published by the United 49552  
States bureau of labor statistics, from the beginning of the old 49553  
lease to the beginning of the new lease. 49554

(6) Subject to the limitation specified in division (A)(1) of 49555  
this section, for a new lease of a facility that was not in 49556  
existence or that was in existence but not operated under a lease 49557  
on May 27, 1992, actual, allowable cost of ownership shall include 49558  
the lesser of annual new lease expense or the annual amount 49559  
calculated for the old lease under division (C)(2), (3), (4), or 49560  
(6) of this section, as applicable. If the old lease was in effect 49561  
for ten years or longer, the lessor's historical capital asset 49562  
cost basis shall be adjusted by the lesser of the following for 49563  
purposes of calculating the annual amount under division (C)(2), 49564  
(3), (4), or (6) of this section: 49565

(a) One-half of the change in construction costs from the 49566  
beginning of the old lease to the beginning of the new lease, as 49567  
calculated by the department using the "Dodge building cost 49568  
indexes, northeastern and north central states," published by 49569  
Marshall and Swift; 49570

(b) One-half of the change in the consumer price index for 49571  
all items for all urban consumers, as published by the United 49572  
States bureau of labor statistics, from the beginning of the old 49573  
lease to the beginning of the new lease. 49574

In the case of a lease under division (C)(3) of this section 49575  
of a facility for which a substantial commitment of money was made 49576  
after December 22, 1992, and before July 1, 1993, the old lease 49577  
payment shall be adjusted for the purpose of determining the 49578

annual amount. 49579

(7) For any revision of a lease described in division (C)(1), 49580  
(2), (3), (4), (5), or (6) of this section, or for any subsequent 49581  
lease of a facility operated under such a lease, other than 49582  
execution of a new lease, the portion of actual, allowable cost of 49583  
ownership attributable to the lease shall be the same as before 49584  
the revision or subsequent lease. 49585

(8) Except as provided in division (C)(9) of this section, if 49586  
a provider leases an interest in a facility to another provider 49587  
who is a related party, the related party's actual, allowable cost 49588  
of ownership shall include the lesser of the annual lease expense 49589  
or the reasonable cost to the lessor. 49590

(9) If a provider leases an interest in a facility to another 49591  
provider who is a related party, regardless of the date of the 49592  
lease, the related party's actual, allowable cost of ownership 49593  
shall include the annual lease expense, subject to the limitations 49594  
specified in divisions (C)(1) to (7) of this section, if all of 49595  
the following conditions are met: 49596

(a) The related party is a relative of owner; 49597

(b) If the lessor retains an ownership interest, it is, 49598  
except as provided in division (C)(9)(c)(ii) of this section, in 49599  
only the real property and any improvements on the real property; 49600

(c) The department of job and family services determines that 49601  
the lease is an arm's length transaction pursuant to rules the 49602  
department shall adopt in accordance with Chapter 119. of the 49603  
Revised Code no later than December 31, 2000. The rules shall 49604  
provide that a lease is an arm's length transaction if all of the 49605  
following apply: 49606

(i) Once the lease goes into effect, the lessor has no direct 49607  
or indirect interest in the lessee or, except as provided in 49608  
division (C)(9)(b) of this section, the facility itself, including 49609



interest as an owner, officer, director, employee, independent 49610  
contractor, or consultant, but excluding interest as a lessor. 49611

(ii) The lessor does not reacquire an interest in the 49612  
facility except through the exercise of a lessor's rights in the 49613  
event of a default. If the lessor reacquires an interest in the 49614  
facility in this manner, the department shall treat the facility 49615  
as if the lease never occurred when the department calculates its 49616  
reimbursement rates for capital costs. 49617

(iii) The lease satisfies any other criteria specified in the 49618  
rules. 49619

(d) Except in the case of hardship caused by a catastrophic 49620  
event, as determined by the department, or in the case of a lessor 49621  
who is at least sixty-five years of age, not less than twenty 49622  
years have elapsed since, for the same facility, the capital cost 49623  
basis was adjusted most recently under division (B)(5) of this 49624  
section or actual, allowable cost of ownership was determined most 49625  
recently under division (C)(9) of this section. 49626

(10) This division does not apply to leases of specific items 49627  
of equipment. 49628

(D)(1) Subject to division (D)(2) of this section, the 49629  
department shall pay each nursing facility an efficiency incentive 49630  
that is equal to fifty per cent of the difference between the 49631  
following: 49632

(a) Eighty-eight and sixty-five one-hundredths per cent of 49633  
the facility's desk-reviewed, actual, allowable, per diem cost of 49634  
ownership; 49635

(b) The applicable amount specified in division (E) of this 49636  
section. 49637

(2) The efficiency incentive paid to a nursing facility shall 49638  
not exceed the greater of the following: 49639

(a) The efficiency incentive the facility was paid during the 49640  
fiscal year ending June 30, 1994; 49641

(b) Three dollars per resident per day, adjusted annually for 49642  
rates paid beginning July 1, 1994, for the inflation rate for the 49643  
twelve-month period beginning on the first day of July of the 49644  
calendar year preceding the calendar year that precedes the fiscal 49645  
year for which the efficiency incentive is determined and ending 49646  
on the thirtieth day of the following June, using the consumer 49647  
price index for shelter costs for all urban consumers for the 49648  
north central region, as published by the United States bureau of 49649  
labor statistics. 49650

(3) For purposes of calculating the efficiency incentive, 49651  
depreciation for costs that are paid or reimbursed by any 49652  
government agency shall be considered as costs of ownership, and 49653  
renovation costs that are paid under division (F) of this section 49654  
shall not be considered costs of ownership. 49655

(E) The following amounts shall be used to calculate 49656  
efficiency incentives for nursing facilities under this section: 49657

(1) For facilities with dates of licensure prior to January 49658  
1, 1958, four dollars and twenty-four cents per patient day; 49659

(2) For facilities with dates of licensure after December 31, 49660  
1957, but prior to January 1, 1968: 49661

(a) Five dollars and twenty-four cents per patient day if the 49662  
cost of construction was three thousand five hundred dollars or 49663  
more per bed; 49664

(b) Four dollars and twenty-four cents per patient day if the 49665  
cost of construction was less than three thousand five hundred 49666  
dollars per bed. 49667

(3) For facilities with dates of licensure after December 31, 49668  
1967, but prior to January 1, 1976: 49669

(a) Six dollars and twenty-four cents per patient day if the 49670  
cost of construction was five thousand one hundred fifty dollars 49671  
or more per bed; 49672

(b) Five dollars and twenty-four cents per patient day if the 49673  
cost of construction was less than five thousand one hundred fifty 49674  
dollars per bed, but exceeded three thousand five hundred dollars 49675  
per bed; 49676

(c) Four dollars and twenty-four cents per patient day if the 49677  
cost of construction was three thousand five hundred dollars or 49678  
less per bed. 49679

(4) For facilities with dates of licensure after December 31, 49680  
1975, but prior to January 1, 1979: 49681

(a) Seven dollars and twenty-four cents per patient day if 49682  
the cost of construction was six thousand eight hundred dollars or 49683  
more per bed; 49684

(b) Six dollars and twenty-four cents per patient day if the 49685  
cost of construction was less than six thousand eight hundred 49686  
dollars per bed but exceeded five thousand one hundred fifty 49687  
dollars per bed; 49688

(c) Five dollars and twenty-four cents per patient day if the 49689  
cost of construction was five thousand one hundred fifty dollars 49690  
or less per bed, but exceeded three thousand five hundred dollars 49691  
per bed; 49692

(d) Four dollars and twenty-four cents per patient day if the 49693  
cost of construction was three thousand five hundred dollars or 49694  
less per bed. 49695

(5) For facilities with dates of licensure after December 31, 49696  
1978, but prior to January 1, 1981: 49697

(a) Seven dollars and seventy-four cents per patient day if 49698  
the cost of construction was seven thousand six hundred 49699

twenty-five dollars or more per bed; 49700

(b) Seven dollars and twenty-four cents per patient day if 49701  
the cost of construction was less than seven thousand six hundred 49702  
twenty-five dollars per bed but exceeded six thousand eight 49703  
hundred dollars per bed; 49704

(c) Six dollars and twenty-four cents per patient day if the 49705  
cost of construction was six thousand eight hundred dollars or 49706  
less per bed but exceeded five thousand one hundred fifty dollars 49707  
per bed; 49708

(d) Five dollars and twenty-four cents per patient day if the 49709  
cost of construction was five thousand one hundred fifty dollars 49710  
or less but exceeded three thousand five hundred dollars per bed; 49711

(e) Four dollars and twenty-four cents per patient day if the 49712  
cost of construction was three thousand five hundred dollars or 49713  
less per bed. 49714

(6) For facilities with dates of licensure in 1981 or any 49715  
year thereafter prior to December 22, 1992, the following amount: 49716

(a) For facilities with construction costs less than seven 49717  
thousand six hundred twenty-five dollars per bed, the applicable 49718  
amounts for the construction costs specified in divisions 49719  
(E)(5)(b) to (e) of this section; 49720

(b) For facilities with construction costs of seven thousand 49721  
six hundred twenty-five dollars or more per bed, six dollars per 49722  
patient day, provided that for 1981 and annually thereafter prior 49723  
to December 22, 1992, the department shall do both of the 49724  
following to the six-dollar amount: 49725

(i) Adjust the amount for fluctuations in construction costs 49726  
calculated by the department using the "Dodge building cost 49727  
indexes, northeastern and north central states," published by 49728  
Marshall and Swift, using 1980 as the base year; 49729

(ii) Increase the amount, as adjusted for inflation under 49730  
division (E)(6)(b)(i) of this section, by one dollar and 49731  
seventy-four cents. 49732

(7) For facilities with dates of licensure on or after 49733  
January 1, 1992, seven dollars and ninety-seven cents, adjusted 49734  
for fluctuations in construction costs between 1991 and 1993 as 49735  
calculated by the department using the "Dodge building cost 49736  
indexes, northeastern and north central states," published by 49737  
Marshall and Swift, and then increased by one dollar and 49738  
seventy-four cents. 49739

For the fiscal year that begins July 1, 1994, each of the 49740  
amounts listed in divisions (E)(1) to (7) of this section shall be 49741  
increased by twenty-five cents. For the fiscal year that begins 49742  
July 1, 1995, each of those amounts shall be increased by an 49743  
additional twenty-five cents. For subsequent fiscal years, each of 49744  
those amounts, as increased for the prior fiscal year, shall be 49745  
adjusted to reflect the rate of inflation for the twelve-month 49746  
period beginning on the first day of July of the calendar year 49747  
preceding the calendar year that precedes the fiscal year and 49748  
ending on the following thirtieth day of June, using the consumer 49749  
price index for shelter costs for all urban consumers for the 49750  
north central region, as published by the United States bureau of 49751  
labor statistics. 49752

If the amount established for a nursing facility under this 49753  
division is less than the amount that applied to the facility 49754  
under division (B) of former section 5111.25 of the Revised Code, 49755  
as the former section existed immediately prior to December 22, 49756  
1992, the amount used to calculate the efficiency incentive for 49757  
the facility under division (D)(2) of this section shall be the 49758  
amount that was calculated under division (B) of the former 49759  
section. 49760

(F) Beginning July 1, 1993, regardless of the facility's date of licensure or the date of the nonextensive renovations, the rate for the costs of nonextensive renovations for nursing facilities shall be eighty-five per cent of the desk-reviewed, actual, allowable, per diem, nonextensive renovation costs. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made nonextensive renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.

(1) For a nonextensive renovation made after July 1, 1993, to qualify for payment under this division, both of the following conditions must be met:

(a) At least five years have elapsed since the date of licensure of the portion of the facility that is proposed to be renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.

(b) The provider has obtained prior approval from the department of job and family services, and if required the director of health has granted a certificate of need for the renovation under section 3702.52 of the Revised Code. The provider shall submit a plan that describes in detail the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project shall be no more than eighteen months after the renovation begins. The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that specify criteria and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the characterization of the project as a renovation or as an extensive renovation. No provider shall

increase the scope of a project after it is approved by the 49793  
department of job and family services unless the increase in scope 49794  
is approved by the department. 49795

(2) The payment provided for in this division is the only 49796  
payment that shall be made for the costs of a nonextensive 49797  
renovation. Nonextensive renovation costs shall not be included in 49798  
costs of ownership, and a nonextensive renovation shall not affect 49799  
the date of licensure for purposes of calculating the efficiency 49800  
incentive under divisions (D) and (E) of this section. 49801

~~(G) The owner of a nursing facility operating under a 49802  
provider agreement shall provide written notice to the department 49803  
of job and family services at least forty five days prior to 49804  
entering into any contract of sale for the facility or voluntarily 49805  
terminating participation in the medical assistance program. After 49806  
the date on which a transaction of sale of a nursing facility is 49807  
closed, the owner shall refund to the department the amount of 49808  
excess depreciation paid to the facility by the department for 49809  
each year the owner has operated the facility under a provider 49810  
agreement and prorated according to the number of medicaid patient 49811  
days for which the facility has received payment. If a nursing 49812  
facility is sold after five or fewer years of operation under a 49813  
provider agreement, the refund to the department shall be equal to 49814  
the excess depreciation paid to the facility. If a nursing 49815  
facility is sold after more than five years but less than ten 49816  
years of operation under a provider agreement, the refund to the 49817  
department shall equal the excess depreciation paid to the 49818  
facility multiplied by twenty per cent, multiplied by the 49819  
difference between ten and the number of years that the facility 49820  
was operated under a provider agreement. If a nursing facility is 49821  
sold after ten or more years of operation under a provider 49822  
agreement, the owner shall not refund any excess depreciation to 49823  
the department. The owner of a nursing facility that is sold or 49824~~

that ~~voluntarily terminates~~ undergoes a voluntary withdrawal of 49825  
participation in the medical assistance program, as defined in 49826  
section 5111.65 of the Revised Code, also shall refund any other 49827  
amount that the department properly finds to be due after ~~the a~~ 49828  
final fiscal audit ~~conducted under this division~~ the department 49829  
shall conduct. For the purposes of this division, "depreciation 49830  
paid to the facility" means the amount paid to the nursing 49831  
facility for cost of ownership pursuant to this section less any 49832  
amount paid for interest costs, amortization of financing costs, 49833  
and lease expenses. For the purposes of this division, "excess 49834  
depreciation" is the nursing facility's depreciated basis, which 49835  
is the owner's cost less accumulated depreciation, subtracted from 49836  
the purchase price net of selling costs but not exceeding the 49837  
amount of depreciation paid to the facility. 49838

~~A cost report shall be filed with the department within~~ 49839  
~~ninety days after the date on which the transaction of sale is~~ 49840  
~~closed or participation is voluntarily terminated. The report~~ 49841  
~~shall show the accumulated depreciation, the sales price, and~~ 49842  
~~other information required by the department. The department shall~~ 49843  
~~provide for a bank, trust company, or savings and loan association~~ 49844  
~~to hold in escrow the amount of the last two monthly payments to a~~ 49845  
~~nursing facility made pursuant to division (A)(1) of section~~ 49846  
~~5111.22 of the Revised Code before a sale or termination of~~ 49847  
~~participation or, if the owner fails, within the time required by~~ 49848  
~~this division, to notify the department before entering into a~~ 49849  
~~contract of sale for the facility, the amount of the first two~~ 49850  
~~monthly payments made to the facility after the department learns~~ 49851  
~~of the contract, regardless of whether a new owner is in~~ 49852  
~~possession of the facility. If the amount the owner will be~~ 49853  
~~required to refund under this section is likely to be less than~~ 49854  
~~the amount of the two monthly payments otherwise put into escrow~~ 49855  
~~under this division, the department shall take one of the~~ 49856  
~~following actions instead of withholding the amount of the two~~ 49857



~~monthly payments:~~ 49858

~~(1) In the case of an owner that owns other facilities that participate in the medical assistance program, obtain a promissory note in an amount sufficient to cover the amount likely to be refunded;~~ 49859  
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~~(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.~~ 49863  
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~~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.~~ 49870  
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~~If a nursing facility is not sold or its participation is not terminated after notice is provided to the department under this division, the department shall order any payments held in escrow released to the facility upon receiving written notice from the owner that there will be no sale or termination. After written notice is received from a nursing facility that a sale or termination will not take place, the facility shall provide notice to the department at least forty five days prior to entering into any contract of sale or terminating participation at any future time.~~

(H) The department shall pay each eligible proprietary nursing facility a return on the facility's net equity computed at the rate of one and one-half times the average interest rate on special issues of public debt obligations issued to the federal hospital insurance trust fund for the cost reporting period, except that no facility's return on net equity shall exceed fifty cents per patient day.

When calculating the rate for return on net equity, the department shall use the greater of the facility's inpatient days during the applicable cost reporting period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(I) If a nursing facility would receive a lower rate for capital costs for assets in the facility's possession on July 1, 1993, under this section than it would receive under former section 5111.25 of the Revised Code, as the former section existed immediately prior to December 22, 1992, the facility shall receive for those assets the rate it would have received under the former section for each fiscal year beginning on or after July 1, 1993, until the rate it would receive under this section exceeds the rate it would have received under the former section. Any facility that receives a rate calculated under the former section 5111.25

of the Revised Code for assets in the facility's possession on 49922  
July 1, 1993, also shall receive a rate calculated under this 49923  
section for costs of any assets it constructs or acquires after 49924  
July 1, 1993. 49925

**Sec. 5111.251.** (A) The department of job and family services 49926  
shall pay each eligible intermediate care facility for the 49927  
mentally retarded for its reasonable capital costs, a per resident 49928  
per day rate established prospectively each fiscal year for each 49929  
intermediate care facility for the mentally retarded. Except as 49930  
otherwise provided in sections 5111.20 to 5111.32 of the Revised 49931  
Code, the rate shall be based on the facility's capital costs for 49932  
the calendar year preceding the fiscal year in which the rate will 49933  
be paid. The rate shall equal the sum of the following: 49934

(1) The facility's desk-reviewed, actual, allowable, per diem 49935  
cost of ownership for the preceding cost reporting period, limited 49936  
as provided in divisions (C) and (F) of this section; 49937

(2) Any efficiency incentive determined under division (B) of 49938  
this section; 49939

(3) Any amounts for renovations determined under division (D) 49940  
of this section; 49941

(4) Any amounts for return on equity determined under 49942  
division (I) of this section. 49943

Buildings shall be depreciated using the straight line method 49944  
over forty years or over a different period approved by the 49945  
department. Components and equipment shall be depreciated using 49946  
the straight line method over a period designated by the director 49947  
of job and family services in rules adopted in accordance with 49948  
Chapter 119. of the Revised Code, consistent with the guidelines 49949  
of the American hospital association, or over a different period 49950  
approved by the department of job and family services. Any rules 49951

adopted under this division that specify useful lives of 49952  
buildings, components, or equipment apply only to assets acquired 49953  
on or after July 1, 1993. Depreciation for costs paid or 49954  
reimbursed by any government agency shall not be included in costs 49955  
of ownership or renovation unless that part of the payment under 49956  
sections 5111.20 to 5111.32 of the Revised Code is used to 49957  
reimburse the government agency. 49958

(B) The department of job and family services shall pay to 49959  
each intermediate care facility for the mentally retarded an 49960  
efficiency incentive equal to fifty per cent of the difference 49961  
between any desk-reviewed, actual, allowable cost of ownership and 49962  
the applicable limit on cost of ownership payments under division 49963  
(C) of this section. For purposes of computing the efficiency 49964  
incentive, depreciation for costs paid or reimbursed by any 49965  
government agency shall be considered as a cost of ownership, and 49966  
the applicable limit under division (C) of this section shall 49967  
apply both to facilities with more than eight beds and facilities 49968  
with eight or fewer beds. The efficiency incentive paid to a 49969  
facility with eight or fewer beds shall not exceed three dollars 49970  
per patient day, adjusted annually for the inflation rate for the 49971  
twelve-month period beginning on the first day of July of the 49972  
calendar year preceding the calendar year that precedes the fiscal 49973  
year for which the efficiency incentive is determined and ending 49974  
on the thirtieth day of the following June, using the consumer 49975  
price index for shelter costs for all urban consumers for the 49976  
north central region, as published by the United States bureau of 49977  
labor statistics. 49978

(C) Cost of ownership payments to intermediate care 49979  
facilities for the mentally retarded with more than eight beds 49980  
shall not exceed the following limits: 49981

(1) For facilities with dates of licensure prior to January 49982  
1, 1958, not exceeding two dollars and fifty cents per patient 49983

day;	49984
(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968, not exceeding:	49985
	49986
(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;	49987
	49988
	49989
(b) Two dollars and fifty cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.	49990
	49991
	49992
(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976, not exceeding:	49993
	49994
(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;	49995
	49996
	49997
(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;	49998
	49999
	50000
	50001
(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	50002
	50003
	50004
(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:	50005
	50006
(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;	50007
	50008
	50009
(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;	50010
	50011
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(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 bed; 50014  
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(d) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed. 50018  
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50020

(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1980, not exceeding: 50021  
50022

(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed; 50023  
50024  
50025

(b) Five dollars and fifty cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeds six thousand eight hundred dollars per bed; 50026  
50027  
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50029

(c) Four dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeds five thousand one hundred fifty dollars per bed; 50030  
50031  
50032

(d) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeds three thousand five hundred dollars per bed; 50033  
50034  
50035

(e) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed. 50036  
50037  
50038

(6) For facilities with dates of licensure after December 31, 1979, but prior to January 1, 1981, not exceeding: 50039  
50040

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities; 50041  
50042  
50043

(b) Six dollars per patient day if the beds were originally licensed as nursing home beds by the department of health.	50044 50045
(7) For facilities with dates of licensure after December 31, 1980, but prior to January 1, 1982, not exceeding:	50046 50047
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	50048 50049 50050
(b) Six dollars and forty-five cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	50051 50052 50053
(8) For facilities with dates of licensure after December 31, 1981, but prior to January 1, 1983, not exceeding:	50054 50055
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	50056 50057 50058
(b) Six dollars and seventy-nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	50059 50060 50061
(9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:	50062 50063
(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	50064 50065 50066
(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	50067 50068 50069
(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:	50070 50071
(a) Twelve dollars and twenty-four cents per patient day if	50072

the beds were originally licensed as residential facility beds by 50073  
the department of mental retardation and developmental 50074  
disabilities; 50075

(b) Seven dollars and twenty-three cents per patient day if 50076  
the beds were originally licensed as nursing home beds by the 50077  
department of health. 50078

(11) For facilities with dates of licensure after December 50079  
31, 1984, but prior to January 1, 1986, not exceeding: 50080

(a) Twelve dollars and fifty-three cents per patient day if 50081  
the beds were originally licensed as residential facility beds by 50082  
the department of mental retardation and developmental 50083  
disabilities; 50084

(b) Seven dollars and forty cents per patient day if the beds 50085  
were originally licensed as nursing home beds by the department of 50086  
health. 50087

(12) For facilities with dates of licensure after December 50088  
31, 1985, but prior to January 1, 1987, not exceeding: 50089

(a) Twelve dollars and seventy cents per patient day if the 50090  
beds were originally licensed as residential facility beds by the 50091  
department of mental retardation and developmental disabilities; 50092

(b) Seven dollars and fifty cents per patient day if the beds 50093  
were originally licensed as nursing home beds by the department of 50094  
health. 50095

(13) For facilities with dates of licensure after December 50096  
31, 1986, but prior to January 1, 1988, not exceeding: 50097

(a) Twelve dollars and ninety-nine cents per patient day if 50098  
the beds were originally licensed as residential facility beds by 50099  
the department of mental retardation and developmental 50100  
disabilities; 50101

(b) Seven dollars and sixty-seven cents per patient day if 50102



the beds were originally licensed as nursing home beds by the department of health. 50103  
50104

(14) For facilities with dates of licensure after December 31, 1987, but prior to January 1, 1989, not exceeding thirteen dollars and twenty-six cents per patient day; 50105  
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50107

(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; 50108  
50109  
50110

(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; 50111  
50112  
50113

(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; 50114  
50115  
50116

(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; 50117  
50118  
50119

(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day. 50120  
50121  
50122

(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 50123  
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renovation of an intermediate care facility for the mentally 50134  
retarded. Nonextensive renovation costs shall not be included in 50135  
cost of ownership, and a nonextensive renovation shall not affect 50136  
the date of licensure for purposes of division (C) of this 50137  
section. This division applies to nonextensive renovations 50138  
regardless of whether they are made by an owner or a lessee. If 50139  
the tenancy of a lessee that has made renovations ends before the 50140  
depreciation expense for the renovation costs has been fully 50141  
reported, the former lessee shall not report the undepreciated 50142  
balance as an expense. 50143

For a nonextensive renovation to qualify for payment under 50144  
this division, both of the following conditions must be met: 50145

(1) At least five years have elapsed since the date of 50146  
licensure or date of an extensive renovation of the portion of the 50147  
facility that is proposed to be renovated, except that this 50148  
condition does not apply if the renovation is necessary to meet 50149  
the requirements of federal, state, or local statutes, ordinances, 50150  
rules, or policies. 50151

(2) The provider has obtained prior approval from the 50152  
department of job and family services. The provider shall submit a 50153  
plan that describes in detail the changes in capital assets to be 50154  
accomplished by means of the renovation and the timetable for 50155  
completing the project. The time for completion of the project 50156  
shall be no more than eighteen months after the renovation begins. 50157  
The director of job and family services shall adopt rules in 50158  
accordance with Chapter 119. of the Revised Code that specify 50159  
criteria and procedures for prior approval of renovation projects. 50160  
No provider shall separate a project with the intent to evade the 50161  
characterization of the project as a renovation or as an extensive 50162  
renovation. No provider shall increase the scope of a project 50163  
after it is approved by the department of job and family services 50164  
unless the increase in scope is approved by the department. 50165

(E) The amounts specified in divisions (C) and (D) of this section shall be adjusted beginning July 1, 1993, for the estimated inflation for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which rate will be paid and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(F)(1) For facilities of eight or fewer beds that have dates of licensure or have been granted project authorization by the department of mental retardation and developmental disabilities before July 1, 1993, and for facilities of eight or fewer beds that have dates of licensure or have been granted project authorization after that date if the facilities demonstrate that they made substantial commitments of funds on or before that date, cost of ownership shall not exceed eighteen dollars and thirty cents per resident per day. The eighteen-dollar and thirty-cent amount shall be increased by the change in the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, during the period beginning June 30, 1990, and ending July 1, 1993, and by the change in the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics, annually thereafter.

(2) For facilities with eight or fewer beds that have dates of licensure or have been granted project authorization by the department of mental retardation and developmental disabilities on or after July 1, 1993, for which substantial commitments of funds were not made before that date, cost of ownership payments shall not exceed the applicable amount calculated under division (F)(1) of this section, if the department of job and family services

gives prior approval for construction of the facility or, 50198  
regardless of whether the department gives prior approval, if the 50199  
facility obtains a residential facility license under section 50200  
5123.19 of the Revised Code pursuant to section 5123.1910 of the 50201  
Revised Code. If the department does not give prior approval, cost 50202  
of ownership payments shall not exceed the amount specified in 50203  
division (C) of this section unless the facility obtains a 50204  
residential facility license under section 5123.19 of the Revised 50205  
Code pursuant to section 5123.1910 of the Revised Code. 50206

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 50207  
section, the total payment for cost of ownership, cost of 50208  
ownership efficiency incentive, and capitalized costs of 50209  
renovations for an intermediate care facility for the mentally 50210  
retarded with eight or fewer beds shall not exceed the sum of the 50211  
limitations specified in divisions (C) and (D) of this section. 50212

(G) Notwithstanding any provision of this section or section 50213  
5111.24 of the Revised Code, the director of job and family 50214  
services may adopt rules in accordance with Chapter 119. of the 50215  
Revised Code that provide for a calculation of a combined maximum 50216  
payment limit for indirect care costs and cost of ownership for 50217  
intermediate care facilities for the mentally retarded with eight 50218  
or fewer beds. 50219

(H) ~~After June 30, 1980, the owner of an intermediate care~~ 50220  
~~facility for the mentally retarded operating under a provider~~ 50221  
~~agreement shall provide written notice to the department of job~~ 50222  
~~and family services at least forty five days prior to entering~~ 50223  
~~into any contract of sale for the facility or voluntarily~~ 50224  
~~terminating participation in the medical assistance program.~~ After 50225  
the date on which a transaction of sale of an intermediate care 50226  
facility for the mentally retarded is closed, the owner shall 50227  
refund to the department the amount of excess depreciation paid to 50228  
the facility by the department for each year the owner has 50229

operated the facility under a provider agreement and prorated 50230  
according to the number of medicaid patient days for which the 50231  
facility has received payment. If an intermediate care facility 50232  
for the mentally retarded is sold after five or fewer years of 50233  
operation under a provider agreement, the refund to the department 50234  
shall be equal to the excess depreciation paid to the facility. If 50235  
an intermediate care facility for the mentally retarded is sold 50236  
after more than five years but less than ten years of operation 50237  
under a provider agreement, the refund to the department shall 50238  
equal the excess depreciation paid to the facility multiplied by 50239  
twenty per cent, multiplied by the number of years less than ten 50240  
that a facility was operated under a provider agreement. If an 50241  
intermediate care facility for the mentally retarded is sold after 50242  
ten or more years of operation under a provider agreement, the 50243  
owner shall not refund any excess depreciation to the department. 50244  
For the purposes of this division, "depreciation paid to the 50245  
facility" means the amount paid to the intermediate care facility 50246  
for the mentally retarded for cost of ownership pursuant to this 50247  
section less any amount paid for interest costs. For the purposes 50248  
of this division, "excess depreciation" is the intermediate care 50249  
facility for the mentally retarded's depreciated basis, which is 50250  
the owner's cost less accumulated depreciation, subtracted from 50251  
the purchase price but not exceeding the amount of depreciation 50252  
paid to the facility. 50253

~~A cost report shall be filed with the department within 50254  
ninety days after the date on which the transaction of sale is 50255  
closed or participation is voluntarily terminated for an 50256  
intermediate care facility for the mentally retarded subject to 50257  
this division. The report shall show the accumulated depreciation, 50258  
the sales price, and other information required by the department. 50259  
The department shall provide for a bank, trust company, or savings 50260  
and loan association to hold in escrow the amount of the last two 50261  
monthly payments to an intermediate care facility for the mentally 50262~~

~~retarded made pursuant to division (A)(1) of section 5111.22 of 50263  
the Revised Code before a sale or voluntary termination of 50264  
participation or, if the owner fails, within the time required by 50265  
this division, to notify the department before entering into a 50266  
contract of sale for the facility, the amount of the first two 50267  
monthly payments made to the facility after the department learns 50268  
of the contract, regardless of whether a new owner is in 50269  
possession of the facility. If the amount the owner will be 50270  
required to refund under this section is likely to be less than 50271  
the amount of the two monthly payments otherwise put into escrow 50272  
under this division, the department shall take one of the 50273  
following actions instead of withholding the amount of the two 50274  
monthly payments:~~ 50275

~~(1) In the case of an owner that owns other facilities that 50276  
participate in the medical assistance program, obtain a promissory 50277  
note in an amount sufficient to cover the amount likely to be 50278  
refunded;~~ 50279

~~(2) In the case of all other owners, withhold the amount of 50280  
the last monthly payment to the intermediate care facility for the 50281  
mentally retarded or, if the owner fails, within the time required 50282  
by this division, to notify the department before entering into a 50283  
contract of sale for the facility, the amount of the first monthly 50284  
payment made to the facility after the department learns of the 50285  
contract, regardless of whether a new owner is in possession of 50286  
the facility.~~ 50287

~~The department shall, within ninety days following the filing 50288  
of the cost report, audit the report and issue an audit report to 50289  
the owner. The department also may audit any other cost reports 50290  
for the facility that have been filed during the previous three 50291  
years. In the audit report, the department shall state its 50292  
findings and the amount of any money owed to the department by the 50293  
intermediate care facility for the mentally retarded. The findings 50294~~

~~shall be subject to an adjudication conducted in accordance with~~ 50295  
~~Chapter 119. of the Revised Code. No later than fifteen days after~~ 50296  
~~the owner agrees to a settlement, any funds held in escrow less~~ 50297  
~~any amounts due to the department shall be released to the owner~~ 50298  
~~and amounts due to the department shall be paid to the department.~~ 50299  
~~If the amounts in escrow are less than the amounts due to the~~ 50300  
~~department, the balance shall be paid to the department within~~ 50301  
~~fifteen days after the owner agrees to a settlement. If the~~ 50302  
~~department does not issue its audit report within the ninety day~~ 50303  
~~period, the department shall release any money held in escrow to~~ 50304  
~~the owner.~~ For the purposes of this section, a transfer of 50305  
corporate stock, the merger of one corporation into another, or a 50306  
consolidation does not constitute a sale. 50307

~~If an intermediate care facility for the mentally retarded is~~ 50308  
~~not sold or its participation is not terminated after notice is~~ 50309  
~~provided to the department under this division, the department~~ 50310  
~~shall order any payments held in escrow released to the facility~~ 50311  
~~upon receiving written notice from the owner that there will be no~~ 50312  
~~sale or termination of participation. After written notice is~~ 50313  
~~received from an intermediate care facility for the mentally~~ 50314  
~~retarded that a sale or termination of participation will not take~~ 50315  
~~place, the facility shall provide notice to the department at~~ 50316  
~~least forty five days prior to entering into any contract of sale~~ 50317  
~~or terminating participation at any future time.~~ 50318

(I) The department of job and family services shall pay each 50319  
eligible proprietary intermediate care facility for the mentally 50320  
retarded a return on the facility's net equity computed at the 50321  
rate of one and one-half times the average of interest rates on 50322  
special issues of public debt obligations issued to the federal 50323  
hospital insurance trust fund for the cost reporting period. No 50324  
facility's return on net equity paid under this division shall 50325  
exceed one dollar per patient day. 50326

In calculating the rate for return on net equity, the 50327  
department shall use the greater of the facility's inpatient days 50328  
during the applicable cost reporting period or the number of 50329  
inpatient days the facility would have had during that period if 50330  
its occupancy rate had been ninety-five per cent. 50331

(J)(1) Except as provided in division (J)(2) of this section, 50332  
if a provider leases or transfers an interest in a facility to 50333  
another provider who is a related party, the related party's 50334  
allowable cost of ownership shall include the lesser of the 50335  
following: 50336

(a) The annual lease expense or actual cost of ownership, 50337  
whichever is applicable; 50338

(b) The reasonable cost to the lessor or provider making the 50339  
transfer. 50340

(2) If a provider leases or transfers an interest in a 50341  
facility to another provider who is a related party, regardless of 50342  
the date of the lease or transfer, the related party's allowable 50343  
cost of ownership shall include the annual lease expense or actual 50344  
cost of ownership, whichever is applicable, subject to the 50345  
limitations specified in divisions (B) to (I) of this section, if 50346  
all of the following conditions are met: 50347

(a) The related party is a relative of owner; 50348

(b) In the case of a lease, if the lessor retains any 50349  
ownership interest, it is, except as provided in division 50350  
(J)(2)(d)(ii) of this section, in only the real property and any 50351  
improvements on the real property; 50352

(c) In the case of a transfer, the provider making the 50353  
transfer retains, except as provided in division (J)(2)(d)(iv) of 50354  
this section, no ownership interest in the facility; 50355

(d) The department of job and family services determines that 50356



the lease or transfer is an arm's length transaction pursuant to 50357  
rules the department shall adopt in accordance with Chapter 119. 50358  
of the Revised Code no later than December 31, 2000. The rules 50359  
shall provide that a lease or transfer is an arm's length 50360  
transaction if all of the following, as applicable, apply: 50361

(i) In the case of a lease, once the lease goes into effect, 50362  
the lessor has no direct or indirect interest in the lessee or, 50363  
except as provided in division (J)(2)(b) of this section, the 50364  
facility itself, including interest as an owner, officer, 50365  
director, employee, independent contractor, or consultant, but 50366  
excluding interest as a lessor. 50367

(ii) In the case of a lease, the lessor does not reacquire an 50368  
interest in the facility except through the exercise of a lessor's 50369  
rights in the event of a default. If the lessor reacquires an 50370  
interest in the facility in this manner, the department shall 50371  
treat the facility as if the lease never occurred when the 50372  
department calculates its reimbursement rates for capital costs. 50373

(iii) In the case of a transfer, once the transfer goes into 50374  
effect, the provider that made the transfer has no direct or 50375  
indirect interest in the provider that acquires the facility or 50376  
the facility itself, including interest as an owner, officer, 50377  
director, employee, independent contractor, or consultant, but 50378  
excluding interest as a creditor. 50379

(iv) In the case of a transfer, the provider that made the 50380  
transfer does not reacquire an interest in the facility except 50381  
through the exercise of a creditor's rights in the event of a 50382  
default. If the provider reacquires an interest in the facility in 50383  
this manner, the department shall treat the facility as if the 50384  
transfer never occurred when the department calculates its 50385  
reimbursement rates for capital costs. 50386

(v) The lease or transfer satisfies any other criteria 50387

specified in the rules. 50388

(e) Except in the case of hardship caused by a catastrophic 50389  
event, as determined by the department, or in the case of a lessor 50390  
or provider making the transfer who is at least sixty-five years 50391  
of age, not less than twenty years have elapsed since, for the 50392  
same facility, allowable cost of ownership was determined most 50393  
recently under this division. 50394

**Sec. 5111.28.** (A) If a provider properly amends its cost 50395  
report under section 5111.27 of the Revised Code and the amended 50396  
report shows that the provider received a lower rate under the 50397  
original cost report than it was entitled to receive, the 50398  
department shall adjust the provider's rate prospectively to 50399  
reflect the corrected information. The department shall pay the 50400  
adjusted rate beginning two months after the first day of the 50401  
month after the provider files the amended cost report. If the 50402  
department finds, from an exception review of resident assessment 50403  
information conducted after the effective date of the rate for 50404  
direct care costs that is based on the assessment information, 50405  
that inaccurate assessment information resulted in the provider 50406  
receiving a lower rate than it was entitled to receive, the 50407  
department prospectively shall adjust the provider's rate 50408  
accordingly and shall make payments using the adjusted rate for 50409  
the remainder of the calendar quarter for which the assessment 50410  
information is used to determine the rate, beginning one month 50411  
after the first day of the month after the exception review is 50412  
completed. 50413

(B) If the provider properly amends its cost report under 50414  
section 5111.27 of the Revised Code, the department makes a 50415  
finding based on an audit under that section, or the department 50416  
makes a finding based on an exception review of resident 50417  
assessment information conducted under that section after the 50418

effective date of the rate for direct care costs that is based on 50419  
the assessment information, any of which results in a 50420  
determination that the provider has received a higher rate than it 50421  
was entitled to receive, the department shall recalculate the 50422  
provider's rate using the revised information. The department 50423  
shall apply the recalculated rate to the periods when the provider 50424  
received the incorrect rate to determine the amount of the 50425  
overpayment. The provider shall refund the amount of the 50426  
overpayment. 50427

In addition to requiring a refund under this division, the 50428  
department may charge the provider interest at the applicable rate 50429  
specified in this division from the time the overpayment was made. 50430

(1) If the overpayment resulted from costs reported for 50431  
calendar year 1993, the interest shall be no greater than one and 50432  
one-half times the average bank prime rate. 50433

(2) If the overpayment resulted from costs reported for 50434  
subsequent calendar years: 50435

(a) The interest shall be no greater than two times the 50436  
average bank prime rate if the overpayment was equal to or less 50437  
than one per cent of the total medicaid payments to the provider 50438  
for the fiscal year for which the incorrect information was used 50439  
to establish a rate. 50440

(b) The interest shall be no greater than two and one-half 50441  
times the current average bank prime rate if the overpayment was 50442  
greater than one per cent of the total medicaid payments to the 50443  
provider for the fiscal year for which the incorrect information 50444  
was used to establish a rate. 50445

(C) The department also may impose the following penalties: 50446

(1) If a provider does not furnish invoices or other 50447  
documentation that the department requests during an audit within 50448  
sixty days after the request, no more than the greater of one 50449

thousand dollars per audit or twenty-five per cent of the 50450  
cumulative amount by which the costs for which documentation was 50451  
not furnished increased the total medicaid payments to the 50452  
provider during the fiscal year for which the costs were used to 50453  
establish a rate; 50454

(2) If an ~~owner~~ exiting operator fails to provide a properly 50455  
completed notice of ~~sale of the facility or closure,~~ voluntary 50456  
termination, voluntary withdrawal of participation ~~in the medical~~ 50457  
~~assistance program, or change of operator,~~ as required by section 50458  
~~5111.25~~ 5111.66 or ~~5111.251~~ 5111.67 of the Revised Code, no more 50459  
than the current average bank prime rate plus four per cent of ~~the~~ 50460  
~~last~~ an amount equal to two times the average amount of monthly 50461  
payments to the exiting operator under the medicaid program for 50462  
the twelve-month period immediately preceding the month that 50463  
includes the last day the exiting operator's provider agreement is 50464  
in effect or, in the case of a voluntary withdrawal of 50465  
participation, the effective date of the voluntary withdrawal of 50466  
participation. 50467

(D) If the provider continues to participate in the ~~medical~~ 50468  
~~assistance~~ medicaid program, the department shall deduct any 50469  
amount that the provider is required to refund under this section, 50470  
and the amount of any interest charged or penalty imposed under 50471  
this section, from the next available payment from the department 50472  
to the provider. The department and the provider may enter into an 50473  
agreement under which the amount, together with interest, is 50474  
deducted in installments from payments from the department to the 50475  
provider. If the provider does not continue to participate in the 50476  
medicaid program, the department shall collect any amount that the 50477  
provider owes to the department under this section from the 50478  
withholding, security, or both that the department makes or 50479  
requires under section 5111.681 of the Revised Code. 50480

(E) The department shall transmit refunds and penalties to 50481

the treasurer of state for deposit in the general revenue fund. 50482

(F) For the purpose of this section, the department shall 50483  
determine the average bank prime rate using statistical release 50484  
H.15, "selected interest rates," a weekly publication of the 50485  
federal reserve board, or any successor publication. If 50486  
statistical release H.15, or its successor, ceases to contain the 50487  
bank prime rate information or ceases to be published, the 50488  
department shall request a written statement of the average bank 50489  
prime rate from the federal reserve bank of Cleveland or the 50490  
federal reserve board. 50491

**Sec. 5111.29.** (A) The director of job and family services 50492  
shall adopt rules in accordance with Chapter 119. of the Revised 50493  
Code that establish a process under which a nursing facility or 50494  
intermediate care facility for the mentally retarded, or a group 50495  
or association of facilities, may seek reconsideration of rates 50496  
established under sections 5111.23 to 5111.28 of the Revised Code, 50497  
including a rate for direct care costs recalculated before the 50498  
effective date of the rate as a result of an exception review of 50499  
resident assessment information conducted under section 5111.27 of 50500  
the Revised Code. 50501

(1) Except as provided in divisions (A)(2) to (4) of this 50502  
section, the only issue that a facility, group, or association may 50503  
raise in the rate reconsideration shall be whether the rate was 50504  
calculated in accordance with sections 5111.23 to 5111.28 of the 50505  
Revised Code and the rules adopted under those sections. The rules 50506  
shall permit a facility, group, or association to submit written 50507  
arguments or other materials that support its position. The rules 50508  
shall specify time frames within which the facility, group, or 50509  
association and the department must act. If the department 50510  
determines, as a result of the rate reconsideration, that the rate 50511  
established for one or more facilities is less than the rate to 50512

which it is entitled, the department shall increase the rate. If 50513  
the department has paid the incorrect rate for a period of time, 50514  
the department shall pay the facility the difference between the 50515  
amount it was paid for that period and the amount it should have 50516  
been paid. 50517

(2) The rules shall provide that during a fiscal year, the 50518  
department, by means of the rate reconsideration process, may 50519  
increase a facility's rate as calculated under sections 5111.23 to 50520  
5111.28 of the Revised Code if the facility demonstrates that its 50521  
actual, allowable costs have increased because of extreme 50522  
circumstances. A facility may qualify for a rate increase only if 50523  
its per diem, actual, allowable costs have increased to a level 50524  
that exceeds its total rate, including any efficiency incentive 50525  
and return on equity payment. The rules shall specify the 50526  
circumstances that would justify a rate increase under division 50527  
(A)(2) of this section. In the case of nursing facilities, the 50528  
rules shall provide that the extreme circumstances include 50529  
increased security costs for an inner-city nursing facility and an 50530  
increase in workers' compensation experience rating of greater 50531  
than five per cent for a facility that has an appropriate claims 50532  
management program but do not include a change of ownership that 50533  
results from bankruptcy, foreclosure, or findings of violations of 50534  
certification requirements by the department of health. In the 50535  
case of intermediate care facilities for the mentally retarded, 50536  
the rules shall provide that the extreme circumstances include, 50537  
but are not limited to, renovations approved under division (D) of 50538  
section 5111.251 of the Revised Code, an increase in workers' 50539  
compensation experience rating of greater than five per cent for a 50540  
facility that has an appropriate claims management program, 50541  
increased security costs for an inner-city facility, and a change 50542  
of ownership that results from bankruptcy, foreclosure, or 50543  
findings of violations of certification requirements by the 50544  
department of health. An increase under division (A)(2) of this 50545

section is subject to any rate limitations or maximum rates 50546  
established by sections 5111.23 to 5111.28 of the Revised Code for 50547  
specific cost centers. Any rate increase granted under division 50548  
(A)(2) of this section shall take effect on the first day of the 50549  
first month after the department receives the request. 50550

(3) The rules shall provide that the department, through the 50551  
rate reconsideration process, may increase a facility's rate as 50552  
calculated under sections 5111.23 to 5111.28 of the Revised Code 50553  
if the department, in its sole discretion, determines that the 50554  
rate as calculated under those sections works an extreme hardship 50555  
on the facility. 50556

(4) The rules shall provide that when beds certified for the 50557  
medical assistance program are added to an existing facility, 50558  
replaced at the same site, or subject to a change of ownership or 50559  
lease, the department, through the rate reconsideration process, 50560  
shall increase the facility's rate for capital costs 50561  
proportionately, as limited by any applicable limitation under 50562  
section 5111.25 or 5111.251 of the Revised Code, to account for 50563  
the costs of the beds that are added, replaced, or subject to a 50564  
change of ownership or lease. The department shall make this 50565  
increase one month after the first day of the month after the 50566  
department receives sufficient documentation of the costs. Any 50567  
rate increase granted under division (A)(4) of this section after 50568  
June 30, 1993, shall remain in effect until the effective date of 50569  
a rate calculated under section 5111.25 or 5111.251 of the Revised 50570  
Code that includes costs incurred for a full calendar year for the 50571  
bed addition, bed replacement, or change of ownership or lease. 50572  
The facility shall report double accumulated depreciation in an 50573  
amount equal to the depreciation included in the rate adjustment 50574  
on its cost report for the first year of operation. During the 50575  
term of any loan used to finance a project for which a rate 50576  
adjustment is granted under division (A)(4) of this section, if 50577

the facility is operated by the same provider, the facility shall 50578  
subtract from the interest costs it reports on its cost report an 50579  
amount equal to the difference between the following: 50580

(a) The actual, allowable interest costs for the loan during 50581  
the calendar year for which the costs are being reported; 50582

(b) The actual, allowable interest costs attributable to the 50583  
loan that were used to calculate the rates paid to the facility 50584  
during the same calendar year. 50585

(5) The department's decision at the conclusion of the 50586  
reconsideration process shall not be subject to any administrative 50587  
proceedings under Chapter 119. or any other provision of the 50588  
Revised Code. 50589

(B) ~~Any~~ All of the following are subject to an adjudication 50590  
conducted in accordance with Chapter 119. of the Revised Code: 50591

(1) Any audit disallowance that the department makes as the 50592  
result of an audit under section 5111.27 of the Revised Code, ~~any;~~ 50593

(2) Any adverse finding that results from an exception review 50594  
of resident assessment information conducted under ~~that~~ section 50595  
5111.27 of the Revised Code after the effective date of the 50596  
facility's rate that is based on the assessment information, ~~and~~ 50597  
~~any;~~ 50598

(3) Any penalty the department imposes under division (C) of 50599  
section 5111.28 of the Revised Code ~~shall be subject to an~~ 50600  
~~adjudication conducted in accordance with Chapter 119. or section~~ 50601  
5111.684 of the Revised Code. 50602

**Sec. 5111.30.** The department of job and family services shall 50603  
terminate the provider agreement with an operator of a nursing 50604  
facility or intermediate care facility for the mentally retarded 50605  
that does not comply with the requirements of section 3721.071 of 50606  
the Revised Code for the installation of fire extinguishing and 50607



fire alarm systems. 50608

**Sec. 5111.31.** (A) Every provider agreement with an operator 50609  
of a nursing facility or intermediate care facility for the 50610  
mentally retarded shall: 50611

(1) Prohibit the facility from failing or refusing to retain 50612  
as a patient any person because the person is, becomes, or may, as 50613  
a patient in the facility, become a recipient of assistance under 50614  
the medical assistance program. For the purposes of this division, 50615  
a recipient of medical assistance who is a patient in a facility 50616  
shall be considered a patient in the facility during any hospital 50617  
stays totaling less than twenty-five days during any twelve-month 50618  
period. Recipients who have been identified by the department of 50619  
job and family services or its designee as requiring the level of 50620  
care of an intermediate care facility for the mentally retarded 50621  
shall not be subject to a maximum period of absences during which 50622  
they are considered patients if prior authorization of the 50623  
department for visits with relatives and friends and participation 50624  
in therapeutic programs is obtained under rules adopted under 50625  
section 5111.02 of the Revised Code. 50626

(2) Include any part of the facility that meets standards for 50627  
certification of compliance with federal and state laws and rules 50628  
for participation in the medical assistance program, except that 50629  
nursing facilities that, during the period beginning July 1, 1987, 50630  
and ending July 1, 1993, added beds licensed as nursing home beds 50631  
under Chapter 3721. of the Revised Code are not required to 50632  
include those beds under a provider agreement unless otherwise 50633  
required by federal law. Once added to the provider agreement, 50634  
however, those nursing home beds may not be removed unless the 50635  
facility withdraws from the medical assistance program in its 50636  
entirety. 50637

(3) Prohibit the facility from discriminating against any 50638

patient on the basis of race, color, sex, creed, or national origin. 50639  
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(4) Except as otherwise prohibited under section 5111.55 of the Revised Code, prohibit the facility from failing or refusing to accept a patient because the patient is, becomes, or may, as a patient in the facility, become a recipient of assistance under the medical assistance program if less than eighty per cent of the patients in the facility are recipients of medical assistance. 50641  
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(B) Nothing in this section shall bar any religious or denominational nursing facility or intermediate care facility for the mentally retarded that is operated, supervised, or controlled by a religious organization from giving preference to persons of the same religion or denomination. Nothing in this section shall bar any facility from giving preference to persons with whom it has contracted to provide continuing care. 50647  
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(C) Nothing in this section shall bar any county home organized under Chapter 5155. of the Revised Code from admitting residents exclusively from the county in which the county home is located. 50654  
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(D) No operator of a nursing facility or intermediate care facility for the mentally retarded with which a provider agreement is in effect shall violate the provider contract obligations imposed under this section. 50658  
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(E) Nothing in divisions (A) and (B) of this section shall bar any nursing facility or intermediate care facility for the mentally retarded from retaining patients who have resided in the facility for not less than one year as private pay patients and who subsequently become recipients of assistance under the medicaid program, but refusing to accept as a patient any person who is or may, as a patient in the facility, become a recipient of assistance under the medicaid program, if all of the following 50662  
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apply: 50670

(1) The facility does not refuse to retain any patient who 50671  
has resided in the facility for not less than one year as a 50672  
private pay patient because the patient becomes a recipient of 50673  
assistance under the medicaid program, except as necessary to 50674  
comply with division (E)(2) of this section; 50675

(2) The number of medicaid recipients retained under this 50676  
division does not at any time exceed ten per cent of all the 50677  
patients in the facility; 50678

(3) On July 1, 1980, all the patients in the facility were 50679  
private pay patients. 50680

**Sec. 5111.34.** (A) There is hereby created the nursing 50681  
facility reimbursement study council consisting of the following 50682  
~~seventeen~~ eighteen members: 50683

(1) The director of job and family services; 50684

(2) The deputy director of the office of Ohio health plans of 50685  
the department of job and family services; 50686

(3) An employee of the governor's office; 50687

(4) The director of health; 50688

(5) The director of aging; 50689

(6) Three members of the house of representatives, not more 50690  
than two of whom are members of the same political party, 50691  
appointed by the speaker of the house of representatives; 50692

(7) Three members of the senate, not more than two of whom 50693  
are members of the same political party, appointed by the 50694  
president of the senate; 50695

(8) One representative of medicaid recipients residing in 50696  
nursing facilities, appointed by the governor; 50697

(9) Two representatives of each of the following organizations, appointed by their respective governing bodies: 50698

(a) The Ohio academy of nursing homes; 50700

(b) The association of Ohio philanthropic homes and housing for the aging; 50701  
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(c) The Ohio health care association. 50703

Initial appointments of members described in divisions (A)(6), (7), and ~~(8)~~(9) of this section shall be made no later than ninety days after June 6, 2001, except that the initial appointments of the two additional members described in divisions (A)(6) and (7) of this section added by Am. Sub. H.B. 405 of the 124th general assembly shall be made not later than ninety days after ~~the effective date of this amendment~~ March 14, 2002. Initial appointment of the member described in division (A)(8) of this section shall be made not later than ninety days after the effective date of this amendment. 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)~~, and (9) 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 jointly shall appoint the chairperson of the council. Members of the council shall serve without compensation. 50704  
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(B) The council shall review, on an ongoing basis, the system established by sections 5111.20 to 5111.32 of the Revised Code for reimbursing nursing facilities under the medical assistance program. The council shall recommend any changes it determines are necessary. The council shall issue a report of its activities, 50724  
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findings, and recommendations to the governor, the speaker of the 50729  
house of representatives, and the president of the senate not 50730  
later than July 30, 2004. Thereafter, the council periodically 50731  
shall report its activities, findings, and recommendations to the 50732  
governor, the speaker of the house of representatives, and the 50733  
president of the senate. 50734

(C) The council shall meet quarterly. Its first quarterly 50735  
meeting after the effective date of this amendment shall be held 50736  
not later than August 1, 2003. 50737

**Sec. 5111.65.** As used in sections 5111.65 to 5111.6810 of the 50738  
Revised Code: 50739

(A) "Change of operator" means an entering operator becoming 50740  
the operator of a nursing facility or intermediate care facility 50741  
for the mentally retarded in the place of the exiting operator. 50742

(1) Actions that constitute a change of operator include, but 50743  
are not limited to, the following: 50744

(a) A change in an exiting operator's form of legal 50745  
organization, including the formation of a partnership or 50746  
corporation from a sole proprietorship; 50747

(b) A transfer of all the exiting operator's ownership 50748  
interest in the operation of the facility to the entering 50749  
operator, regardless of whether ownership of any or all of the 50750  
real property or personal property associated with the facility is 50751  
also transferred; 50752

(c) A lease of the facility to the entering operator or the 50753  
exiting operator's termination of the lease; 50754

(d) If the exiting operator is a partnership, dissolution of 50755  
the partnership; 50756

(e) If the exiting operator is a partnership, a change in 50757  
composition of the partnership unless both of the following apply: 50758

<u>(i) The change in composition does not cause the partnership's dissolution under state law.</u>	50759
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<u>(ii) The partners agree that the change in composition does not constitute a change in operator.</u>	50761
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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>	50763
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<u>(2) The following, alone, do not constitute a change of operator:</u>	50767
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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>	50769
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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>	50773
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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>	50778
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<u>(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.</u>	50782
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<u>(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.</u>	50785
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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. 50789  
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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. 50792  
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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. 50797  
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(G) "Exiting operator" means any of the following: 50801

(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; 50802  
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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; 50805  
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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; 50808  
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(4) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation. 50811  
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(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: 50813  
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- (1) The operator completely or partially replacing the facility by constructing a new facility or transferring the facility's license to another facility; 50819  
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- (2) The facility's residents relocating to another of the operator's facilities; 50822  
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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; 50824  
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- (4) Any action the department of health takes regarding the facility's license under Chapter 3721. of the Revised Code; 50829  
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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. 50831  
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- (I) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code. 50834  
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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. 50836  
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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 retarded for the provision of nursing facility services or intermediate care facility services for the mentally retarded under the medical assistance program. 50839  
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- (L) "Voluntary termination" means an operator's voluntary election to terminate the participation of an intermediate care facility for the mentally retarded in the medicaid program but to continue to provide service of the type provided by a residential 50845  
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facility as defined in section 5123.19 of the Revised Code. 50849

(M) "Voluntary withdrawal of participation" means an 50850  
operator's voluntary election to terminate the participation of a 50851  
nursing facility in the medicaid program but to continue to 50852  
provide service of the type provided by nursing facilities. 50853

**Sec. 5111.66.** An exiting operator or owner of a nursing 50854  
facility or intermediate care facility for the mentally retarded 50855  
participating in the medicaid program shall provide the department 50856  
of job and family services written notice of a facility closure, 50857  
voluntary termination, or voluntary withdrawal of participation 50858  
not less than ninety days before the effective date of the 50859  
facility closure, voluntary termination, or voluntary withdrawal 50860  
of participation. The written notice shall include all of the 50861  
following: 50862

(A) The name of the exiting operator and, if any, the exiting 50863  
operator's authorized agent; 50864

(B) The name of the nursing facility or intermediate care 50865  
facility for the mentally retarded that is the subject of the 50866  
facility closure, voluntary termination, or voluntary withdrawal 50867  
of participation; 50868

(C) The exiting operator's medicaid provider agreement 50869  
number; 50870

(D) The effective date of the facility closure, voluntary 50871  
termination, or voluntary withdrawal of participation; 50872

(E) The signature of the exiting operator's or owner's 50873  
representative. 50874

**Sec. 5111.661.** An operator shall comply with section 50875  
1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 50876  
42 U.S.C. 1396r(c)(2)(F) if the operator's nursing facility 50877

undergoes a voluntary withdrawal of participation. 50878

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: 50879  
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(1) The name of the exiting operator and, if any, the exiting operator's authorized agent; 50892  
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(2) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the change of operator; 50894  
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(3) The exiting operator's medicaid provider agreement number; 50897  
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(4) The name of the entering operator; 50899

(5) The effective date of the change of operator; 50900

(6) The manner in which the entering operator becomes the facility's operator, including through sale, lease, merger, or other action; 50901  
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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; 50904  
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(8) Written authorization from the exiting operator or owner 50907

and entering operator for the department to process a provider agreement for the entering operator; 50908  
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(9) The signature of the exiting operator's or owner's representative. 50910  
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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: 50912  
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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; 50916  
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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. 50922  
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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 of operator if all of the following requirements are met: 50928  
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(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. 50932  
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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 50935  
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supporting documents relating to the change of operator not later 50938  
than ten days after the effective date of the change of operator. 50939

(C) The entering operator is eligible for medicaid payments 50940  
as provided in section 5111.21 of the Revised Code. 50941

**Sec. 5111.672.** (A) The department of job and family services 50942  
may enter into a provider agreement with an entering operator that 50943  
goes into effect at 12:01 a.m. on the date determined under 50944  
division (B) of this section if all of the following are the case: 50945

(1) The department receives a properly completed written 50946  
notice required by section 5111.67 of the Revised Code. 50947

(2) The entering operator furnishes to the department copies 50948  
of all the fully executed leases, management agreements, merger 50949  
agreements and supporting documents, and sales contracts and 50950  
supporting documents relating to change of operator. 50951

(3) The requirement of division (A)(1) of this section is met 50952  
after the time required by section 5111.67 of the Revised Code, 50953  
the requirement of division (A)(2) of this section is met more 50954  
than ten days after the effective date of the change of operator, 50955  
or both. 50956

(4) The entering operator is eligible for medicaid payments 50957  
as provided in section 5111.21 of the Revised Code. 50958

(B) The department shall determine the date a provider 50959  
agreement entered into under this section is to go into effect as 50960  
follows: 50961

(1) The effective date shall give the department sufficient 50962  
time to process the change of operator, assure no duplicate 50963  
payments are made, make the withholding required by section 50964  
5111.681 of the Revised Code, and withhold the final payment to 50965  
the exiting operator until the following: 50966

(a) Ninety days after the exiting operator submits to the 50967

department a properly completed cost report under section 5111.683 50968  
of the Revised Code; 50969

(b) One hundred eighty days after the department waives the 50970  
cost report requirement of section 5111.683 of the Revised Code. 50971

(2) The effective date shall be not earlier than the later of 50972  
the effective date of the change of operator or the date that the 50973  
exiting operator or owner and entering operator comply with 50974  
section 5111.67 of the Revised Code. 50975

(3) The effective date shall be not later than the following 50976  
after the later of the dates specified in division (B)(2) of this 50977  
section: 50978

(a) Forty-five days if the change of operator does not entail 50979  
the relocation of residents; 50980

(b) Ninety days if the change of operator entails the 50981  
relocation of residents. 50982

**Sec. 5111.673.** A provider agreement that the department of 50983  
job and family services enters into with an entering operator 50984  
under section 5111.671 or 5111.672 of the Revised Code shall 50985  
satisfy all of the following requirements: 50986

(A) Comply with all applicable federal statutes and 50987  
regulations; 50988

(B) Comply with section 5111.22 of the Revised Code and all 50989  
other applicable state statutes and rules; 50990

(C) Include all the terms and conditions of the exiting 50991  
operator's provider agreement, including, but not limited to, all 50992  
of the following: 50993

(1) Any plan of correction; 50994

(2) Compliance with health and safety standards; 50995

(3) Compliance with the ownership and financial interest 50996

<u>disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;</u>	50997
<u>(4) Compliance with the civil rights requirements of 45</u>	50998
<u>C.F.R. parts 80, 84, and 90;</u>	50999
<u>(5) Compliance with additional requirements imposed by the</u>	51000
<u>department;</u>	51001
<u>(6) Any sanctions relating to remedies for violation of the</u>	51002
<u>provider agreement, including deficiencies, compliance periods,</u>	51003
<u>accountability periods, monetary penalties, notification for</u>	51004
<u>correction of contract violations, and history of deficiencies.</u>	51005
<u>(D) Require the entering operator to assume the exiting</u>	51006
<u>operator's remaining debt to the department and United States</u>	51007
<u>centers for medicare and medicaid services that the department is</u>	51008
<u>unable to collect from the exiting operator.</u>	51009
<u>Sec. 5111.674. In the case of a change of operator, the</u>	51010
<u>exiting operator shall be considered to be the operator of the</u>	51011
<u>nursing facility or intermediate care facility for the mentally</u>	51012
<u>retarded for purposes of the medicaid program, including medicaid</u>	51013
<u>payments, until the effective date of the entering operator's</u>	51014
<u>provider agreement if the provider agreement is entered into under</u>	51015
<u>section 5111.671 or 5111.672 of the Revised Code.</u>	51016
<u>Sec. 5111.675. The department of job and family services may</u>	51017
<u>enter into a provider agreement as provided in section 5111.22 of</u>	51018
<u>the Revised Code, rather than section 5111.671 or 5111.672 of the</u>	51019
<u>Revised Code, with an entering operator if the entering operator</u>	51020
<u>does not agree to a provider agreement that satisfies the</u>	51021
<u>requirements of division (C) or (D) of section 5111.673 of the</u>	51022
<u>Revised Code. The department may not enter into the provider</u>	51023
<u>agreement unless the department of health certifies the nursing</u>	51024
<u>facility or intermediate care facility for the mentally retarded</u>	51025
<u>under Title XIX of the "Social Security Act," 79 Stat. 286 (1965),</u>	51026

42 U.S.C.A. 1396, as amended. The effective date of the provider agreement shall not precede any of the following: 51027  
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(A) The date that the department of health certifies the facility; 51029  
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(B) The effective date of the change of operator; 51031

(C) The date the requirement of section 5111.67 of the Revised Code is satisfied. 51032  
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Sec. 5111.676. The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code governing adjustments to the medicaid reimbursement rate for a nursing facility or intermediate care facility for the mentally retarded that undergoes a change of operator. No rate adjustment resulting from a change of operator shall be effective before the effective date of the entering operator's provider agreement. This is the case regardless of whether the provider agreement is entered into under section 5111.671, section 5111.672, or, pursuant to section 5111.675, section 5111.22 of the Revised Code. 51034  
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Sec. 5111.677. Neither of the following shall affect the department of job and family services' determination of whether or when a change of operator occurs or the effective date of an entering operator's provider agreement under section 5111.671, section 5111.672, or, pursuant to section 5111.675, section 5111.22 of the Revised Code: 51044  
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(A) The department of health's determination that a change of operator has or has not occurred for purposes of licensure under Chapter 3721. of the Revised Code; 51050  
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(B) The department of mental retardation and developmental disabilities' determination that a change of operator has or has not occurred for purposes of licensure under section 5123.19 of the Revised Code. 51053  
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Sec. 5111.68. (A) On receipt of a written notice under 51057  
section 5111.66 of the Revised Code of a facility closure, 51058  
voluntary termination, or voluntary withdrawal of participation or 51059  
a written notice under section 5111.67 of the Revised Code of a 51060  
change of operator, the department of job and family services 51061  
shall determine the amount of any overpayments made under the 51062  
medicaid program to the exiting operator, including overpayments 51063  
the exiting operator disputes, and other actual and potential 51064  
debts the exiting operator owes or may owe to the department and 51065  
United States centers for medicare and medicaid services under the 51066  
medicaid program. In determining the exiting operator's other 51067  
actual and potential debts to the department under the medicaid 51068  
program, the department shall include all of the following that 51069  
the department determines is applicable: 51070

(1) Refunds due the department under division (G) of section 51071  
5111.25 of the Revised Code or division (H) of section 5111.251 of 51072  
the Revised Code; 51073

(2) Interest owed to the department and United States centers 51074  
for medicare and medicaid services; 51075

(3) Final civil monetary and other penalties for which all 51076  
right of appeal has been exhausted; 51077

(4) Third-party liabilities; 51078

(5) Money owed the department and United States centers for 51079  
medicare and medicaid services from any outstanding final fiscal 51080  
audit, including a final fiscal audit for the last fiscal year or 51081  
portion thereof in which the exiting operator participated in the 51082  
medicaid program. 51083

(B) If the department is unable to determine the amount of 51084  
the overpayments and other debts for any period before the 51085  
effective date of the entering operator's provider agreement or 51086



the effective date of the facility closure, voluntary termination, 51087  
or voluntary withdrawal of participation, the department shall 51088  
make a reasonable estimate of the overpayments and other debts for 51089  
the period. The department shall make the estimate using 51090  
information available to the department, including prior 51091  
determinations of overpayments and other debts. 51092

Sec. 5111.681. (A) The department of job and family services 51093  
shall withhold the greater of the following from payment due an 51094  
exiting operator under the medicaid program: 51095

(1) The total amount of any overpayments made under the 51096  
medicaid program to the exiting operator, including overpayments 51097  
the exiting operator disputes, and other actual and potential 51098  
debts, including any unpaid penalties, the exiting operator owes 51099  
or may owe to the department and United States centers for 51100  
medicare and medicaid services under the medicaid program; 51101

(2) An amount equal to the average amount of monthly payments 51102  
to the exiting operator under the medicaid program for the 51103  
twelve-month period immediately preceding the month that includes 51104  
the last day the exiting operator's provider agreement is in 51105  
effect or, in the case of a voluntary withdrawal of participation, 51106  
the effective date of the voluntary withdrawal of participation. 51107

(B) The department may transfer the amount withheld under 51108  
division (A) of this section to an escrow account with a bank, 51109  
trust company, or savings and loan association. 51110

(C) If payment due an exiting operator under the medicaid 51111  
program is less than the amount the department is required to 51112  
withhold under division (A) of this section, the department shall 51113  
require that the exiting operator provide the difference in the 51114  
form of a security. 51115

(D) The department shall release to the exiting operator the 51116

actual amount withheld under division (A) of this section if the 51117  
department allows the exiting operator to provide the department a 51118  
security in the amount the department is required to withhold 51119  
under division (A) of this section, less any of that amount 51120  
provided to the department in the form of a security under 51121  
division (C) of this section. 51122

(E) Security provided to the department under division (C) or 51123  
(D) of this section shall be in either or both of the following 51124  
forms: 51125

(1) In the case of a change of operator, the entering 51126  
operator's nontransferable, unconditional, written agreement to 51127  
pay the department any debt the exiting operator owes the 51128  
department under the medicaid program; 51129

(2) In the case of a change of operator, facility closure, 51130  
voluntary termination, or voluntary withdrawal of participation, a 51131  
form of collateral or security acceptable to the department that 51132  
satisfies both of the following conditions: 51133

(a) Is at least equal to the amount the department is 51134  
required to withhold under division (A) of this section, less any 51135  
amounts the department has received through actual withholding or 51136  
one or more other forms of security under this division; 51137

(b) Is payable to the department if the exiting operator 51138  
fails to pay any debt owed the department under the medicaid 51139  
program within fifteen days of receiving the department's written 51140  
demand for payment of the debt. 51141

**Sec. 5111.682.** An entering operator that provides the 51142  
department of job and family services a security in the form 51143  
provided by division (E)(1) of section 5111.681 of the Revised 51144  
Code shall also provide the department a list of the entering 51145  
operator's assets and liabilities. The department shall determine 51146

whether the assets are sufficient for the purpose of the security. 51147

**Sec. 5111.683.** (A) Except as provided in division (B) of this 51148  
section, an exiting operator shall file with the department of job 51149  
and family services a cost report not later than ninety days after 51150  
the last day the exiting operator's provider agreement is in 51151  
effect or, in the case of a voluntary withdrawal of participation, 51152  
the effective date of the voluntary withdrawal of participation. 51153  
The cost report shall cover the period that begins with the day 51154  
after the last day covered by the operator's most recent previous 51155  
cost report required by section 5111.26 of the Revised Code and 51156  
ends on the last day the exiting operator's provider agreement is 51157  
in effect or, in the case of a voluntary withdrawal of 51158  
participation, the effective date of the voluntary withdrawal of 51159  
participation. The cost report shall include, as applicable, all 51160  
of the following: 51161

(1) The sale price of the nursing facility or intermediate 51162  
care facility for the mentally retarded; 51163

(2) A final depreciation schedule that shows which assets are 51164  
transferred to the buyer and which assets are not transferred to 51165  
the buyer; 51166

(3) Any other information the department requires. 51167

(B) The department, at its sole discretion, may waive the 51168  
requirement that an exiting operator file a cost report in 51169  
accordance with division (A) of this section. 51170

**Sec. 5111.684.** If an exiting operator required by section 51171  
5111.683 of the Revised Code to file a cost report with the 51172  
department of job and family services fails to file the cost 51173  
report in accordance with that section, all payments under the 51174  
medicaid program for the period the cost report is required to 51175  
cover are deemed overpayments until the date the department 51176

receives the properly completed cost report. The department may 51177  
impose on the exiting operator a penalty of one hundred dollars 51178  
for each calendar day the properly completed cost report is late. 51179

Sec. 5111.685. The department of job and family services may 51180  
not provide an exiting operator final payment under the medicaid 51181  
program until the department receives all properly completed cost 51182  
reports the exiting operator is required to file under sections 51183  
5111.26 and 5111.683 of the Revised Code. 51184

Sec. 5111.686. The department of job and family services 51185  
shall determine the actual amount of debt an exiting operator owes 51186  
the department under the medicaid program by completing all final 51187  
fiscal audits not already completed and performing all other 51188  
appropriate actions the department determines to be necessary. The 51189  
department shall issue a report on this matter not later than 51190  
ninety days after the date the exiting operator files the properly 51191  
completed cost report required by section 5111.683 of the Revised 51192  
Code with the department or, if the department waives the cost 51193  
report requirement for the exiting operator, one hundred eighty 51194  
days after the date the department waives the cost report 51195  
requirement. The report shall include the department's findings 51196  
and the amount of debt the department determines the exiting 51197  
operator owes the department and United States centers for 51198  
medicare and medicaid services under the medicaid program. Only 51199  
the parts of the report that are subject to an adjudication as 51200  
specified in division (B) of section 5111.29 of the Revised Code 51201  
are subject to an adjudication conducted in accordance with 51202  
Chapter 119. of the Revised Code. 51203

Sec. 5111.687. The department of job and family services 51204  
shall release the actual amount withheld under division (A) of 51205  
section 5111.681 of the Revised Code, and any security provided to 51206

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: 51207  
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(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; 51211  
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(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; 51217  
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(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; 51223  
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(D) 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 one hundred eighty days after the date the department waives the cost report requirement of section 5111.683 of the Revised Code. 51229  
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**Sec. 5111.688.** If the actual amount the department of job and family services withholds from an exiting operator under division (A) of section 5111.681 of the Revised Code, and any security 51235  
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provided to the department under that section, is inadequate to 51238  
pay the exiting operator's debt to the department and United 51239  
States centers for medicare and medicaid services under the 51240  
medicaid program or the department is required to release the 51241  
withholdings and security under section 5111.687 of the Revised 51242  
Code before the department is paid the exiting operator's debt, 51243  
the department shall collect the debt as follows: 51244

(A) From the exiting operator; 51245

(B) From the entering operator if the department is unable to 51246  
collect the entire debt from the exiting operator and the entering 51247  
operator entered into a provider agreement under section 5111.671 51248  
or 5111.672 of the Revised Code. The department may collect the 51249  
remaining debt by withholding the amount due from payments to the 51250  
entering operator under the medicaid program. The department may 51251  
enter into an agreement with the entering operator under which the 51252  
entering operator pays the remaining debt, with applicable 51253  
interest, in installments from withholdings from the entering 51254  
operator's payments under the medicaid program. 51255

**Sec. 5111.689.** The department of job and family services, at 51256  
its sole discretion, may release the amount withheld under 51257  
division (A) of section 5111.681 of the Revised Code, and any 51258  
security provided to the department under that section, if the 51259  
exiting operator submits to the department written notice of a 51260  
postponement of a change of operator, facility closure, voluntary 51261  
termination, or voluntary withdrawal of participation and the 51262  
transactions leading to the change of operator, facility closure, 51263  
voluntary termination, or voluntary withdrawal of participation 51264  
are postponed for at least thirty days but less than ninety days 51265  
after the date originally proposed for the change of operator, 51266  
facility closure, voluntary termination, or voluntary withdrawal 51267  
of participation as reported in the written notice required by 51268

section 5111.66 or 5111.67 of the Revised Code. The department shall release the amount withheld and security if the exiting operator submits to the department written notice of a cancellation or postponement of a change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation and the transactions leading to the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation are canceled, or postponed for more than ninety days after the date originally proposed for the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation as reported in the written notice required by section 5111.66 or 5111.67 of the Revised Code.

After the department receives a written notice regarding a cancellation or postponement of a facility closure, voluntary termination, or voluntary withdrawal of participation, the exiting operator or owner shall provide new written notice to the department under section 5111.66 of the Revised Code regarding any transactions leading to a facility closure, voluntary termination, or voluntary withdrawal of participation at a future time. After the department receives a written notice regarding a cancellation or postponement of a change of operator, the exiting operator or owner and entering operator shall provide new written notice to the department under section 5111.67 of the Revised Code regarding any transactions leading to a change of operator at a future time.

**Sec. 5111.6810.** The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement sections 5111.65 to 5111.6810 of the Revised Code, including rules applicable to an exiting operator that provides written notification under section 5111.66 of the Revised Code of a voluntary withdrawal of participation. Rules adopted under this section 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),

regarding restrictions on transfers or discharges of nursing facility residents in the case of a voluntary withdrawal of participation. The rules may prescribe a medicaid reimbursement methodology and other procedures that are applicable after the effective date of a voluntary withdrawal of participation that differ from the reimbursement methodology and other procedures that would otherwise apply.

**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 51331  
establishing corrective action plans for, and imposing financial 51332  
and administrative sanctions on, persons and government entities 51333  
that violate the rules. Sanctions shall include terminating 51334  
medicaid provider agreements. The procedures shall include due 51335  
process protections. 51336

(8) Other policies necessary for the efficient administration 51337  
of the medicaid waiver components. 51338

(C) The director of job and family services may adopt 51339  
different rules for the different medicaid waiver components. The 51340  
rules shall be consistent with the terms of the waiver authorizing 51341  
the medicaid waiver component. 51342

(D) The director of job and family services may conduct 51343  
reviews of the medicaid waiver components. The reviews may include 51344  
physical inspections of records and sites where services are 51345  
provided under the medicaid waiver components and interviews of 51346  
providers and recipients of the services. If the director 51347  
determines pursuant to a review that a person or government entity 51348  
has violated a rule governing a medicaid waiver component, the 51349  
director may establish a corrective action plan for the violator 51350  
and impose fiscal, administrative, or both types of sanctions on 51351  
the violator in accordance with rules adopted under division (B) 51352  
of this section. 51353

**Sec. 5111.87.** As used in this section and section 5111.871 of 51354  
the Revised Code, "intermediate care facility for the mentally 51355  
retarded" has the same meaning as in section 5111.20 of the 51356  
Revised Code. 51357

The director of job and family services may apply to the 51358  
United States secretary of health and human services for one or 51359  
more medicaid waivers under which home and community-based 51360

services are provided to individuals with mental retardation or 51361  
other developmental disability as an alternative to placement in 51362  
an intermediate care facility for the mentally retarded. ~~Before~~ 51363  
~~the director applies~~ The director of mental retardation and 51364  
developmental disabilities may request that the director of job 51365  
and family services apply for one or more medicaid waivers under 51366  
this section. 51367

Before applying for a waiver under this section, the director 51368  
of job and family services shall seek, accept, and consider public 51369  
comments. 51370

**Sec. 5111.871.** The department of job and family services 51371  
shall enter into a contract with the department of mental 51372  
retardation and developmental disabilities under section 5111.91 51373  
of the Revised Code with regard to one or more of the ~~component~~ 51374  
components of the medicaid program established by the department 51375  
of job and family services under one or more of the medicaid 51376  
wavers from the United States secretary of health and human 51377  
services pursuant to section 1915 of the "Social Security Act," ~~49~~ 51378  
~~Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended, to provide~~ 51379  
~~eligible medicaid recipients with home and community based~~ 51380  
~~services as an alternative to placement in an intermediate care~~ 51381  
~~facility for the mentally retarded~~ sought under section 5111.87 of 51382  
the Revised Code. The contract shall provide for the department of 51383  
mental retardation and developmental disabilities to administer 51384  
the ~~component~~ components in accordance with the terms of the 51385  
~~waiver~~ wavers. The directors of job and family services and 51386  
mental retardation and developmental disabilities shall adopt 51387  
rules in accordance with Chapter 119. of the Revised Code 51388  
governing the ~~component~~ components. 51389

If the department of mental retardation and developmental 51390  
disabilities or the department of job and family services denies 51391

an individual's application for home and community-based services 51392  
provided under ~~this~~ any of these medicaid ~~component~~ components, 51393  
the department that denied the services shall give timely notice 51394  
to the individual that the individual may request a hearing under 51395  
section 5101.35 of the Revised Code. 51396

The departments of mental retardation and developmental 51397  
disabilities and job and family services may approve, reduce, 51398  
deny, or terminate a service included in the individualized 51399  
service plan developed for a medicaid recipient eligible for home 51400  
and community-based services provided under ~~this~~ any of these 51401  
medicaid ~~component~~ components. The departments shall consider the 51402  
recommendations a county board of mental retardation and 51403  
developmental disabilities makes under division (A)(1)(c) of 51404  
section 5126.055 of the Revised Code. If either department 51405  
approves, reduces, denies, or terminates a service, that 51406  
department shall give timely notice to the medicaid recipient that 51407  
the recipient may request a hearing under section 5101.35 of the 51408  
Revised Code. 51409

If supported living or residential services, as defined in 51410  
section 5126.01 of the Revised Code, are to be provided under ~~this~~ 51411  
~~component~~ any of these components, any person or government entity 51412  
with a current, valid medicaid provider agreement and a current, 51413  
valid license under section 5123.19 or certificate under section 51414  
5123.045 or 5126.431 of the Revised Code may provide the services. 51415

**Sec. 5111.872.** When the department of mental retardation and 51416  
developmental disabilities allocates enrollment numbers to a 51417  
county board of mental retardation and developmental disabilities 51418  
for home and community-based services provided under any of the 51419  
~~component~~ components of the medicaid program that the department 51420  
administers under section 5111.871 of the Revised Code, the 51421  
department shall consider all of the following: 51422

(A) The number of individuals with mental retardation or 51423  
other developmental disability who are on a waiting list the 51424  
county board establishes under division (C) of section 5126.042 of 51425  
the Revised Code for those services and are given priority on the 51426  
waiting list pursuant to division (D) or (E) of that section; 51427

(B) The implementation component required by division (A)(4) 51428  
of section 5126.054 of the Revised Code of the county board's plan 51429  
approved under section 5123.046 of the Revised Code; 51430

(C) Anything else the department considers necessary to 51431  
enable county boards to provide those services to individuals in 51432  
accordance with the priority requirements of ~~division~~ divisions 51433  
(D) and (E) of section 5126.042 of the Revised Code. 51434

**Sec. 5111.873.** (A) Not later than the effective date of the 51435  
first of any medicaid waivers the United States secretary of 51436  
health and human services grants pursuant to a request made under 51437  
section 5111.87 of the Revised Code, the director of job and 51438  
family services shall adopt rules in accordance with Chapter 119. 51439  
of the Revised Code establishing statewide fee schedules for home 51440  
and community-based services provided under the component of the 51441  
medicaid program authorized by that waiver that the department of 51442  
mental retardation and developmental disabilities administers 51443  
under section 5111.871 of the Revised Code. The rules shall 51444  
provide for all of the following: 51445

(1) The department of mental retardation and developmental 51446  
disabilities arranging for the initial and ongoing collection of 51447  
cost information from a comprehensive, statistically valid sample 51448  
of persons and government entities providing the services at the 51449  
time the information is obtained; 51450

(2) The collection of consumer-specific information through 51451  
an assessment instrument the department of mental retardation and 51452

developmental disabilities shall provide to the department of job and family services; 51453  
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(3) With the information collected pursuant to divisions (A)(1) and (2) of this section, an analysis of that information, and other information the director determines relevant, methods and standards for calculating the fee schedules that do all of the following: 51455  
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(a) Assure that the fees are consistent with efficiency, economy, and quality of care; 51460  
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(b) Consider the intensity of consumer resource need; 51462

(c) Recognize variations in different geographic areas regarding the resources necessary to assure the health and welfare of consumers; 51463  
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(d) Recognize variations in environmental supports available to consumers. 51466  
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(B) As part of the process of adopting rules under this section, the director shall consult with the director of mental retardation and developmental disabilities, representatives of county boards of mental retardation and developmental disabilities, persons who provide the home and community-based services, and other persons and government entities the director identifies. 51468  
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(C) The directors of job and family services and mental retardation and developmental disabilities shall review the rules adopted under this section at times they determine to ensure that the methods and standards established by the rules for calculating the fee schedules continue to do everything that division (A)(3) of this section requires. 51475  
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Sec. 5111.911. Any contract the department of job and family services enters into with the department of mental health or 51481  
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department of alcohol and drug addiction services under section 51483  
5111.91 of the Revised Code is subject to the approval of the 51484  
director of budget and management and shall require or specify all 51485  
of the following: 51486

(A) In the case of a contract with the department of mental 51487  
health, that section 5111.912 of the Revised Code be complied 51488  
with; 51489

(B) In the case of a contract with the department of alcohol 51490  
and drug addiction services, that section 5111.913 of the Revised 51491  
Code be complied with; 51492

(C) How providers will be paid for providing the services; 51493

(D) The department of mental health's or department of 51494  
alcohol and drug addiction services' responsibilities for 51495  
reimbursing providers, including program oversight and quality 51496  
assurance. 51497

**Sec. 5111.912.** If the department of job and family services 51498  
enters into a contract with the department of mental health under 51499  
section 5111.91 of the Revised Code, the department of mental 51500  
health and boards of alcohol, drug addiction, and mental health 51501  
services shall pay the nonfederal share of any medicaid payment to 51502  
a provider for services under the component, or aspect of the 51503  
component, the department of mental health administers. 51504

**Sec. 5111.913.** If the department of job and family services 51505  
enters into a contract with the department of alcohol and drug 51506  
addiction services under section 5111.91 of the Revised Code, the 51507  
department of alcohol and drug addiction services and boards of 51508  
alcohol, drug addiction, and mental health services shall pay the 51509  
nonfederal share of any medicaid payment to a provider for 51510  
services under the component, or aspect of the component, the 51511  
department of alcohol and drug addiction services administers. 51512

**Sec. 5111.94.** (A) As used in this section, "vendor offset" 51513  
means a reduction of a medicaid payment to a medicaid provider to 51514  
correct a previous, incorrect medicaid payment to that provider. 51515

(B) There is hereby created in the state treasury the health 51516  
care services administration fund. Except as provided in division 51517  
(C) of this section, all the following shall be deposited into the 51518  
fund: 51519

(1) Amounts deposited into the fund pursuant to sections 51520  
5111.92 and 5111.93 of the Revised Code; 51521

(2) The amount of the state share of all money the department 51522  
of job and family services, in fiscal year 2003 and each fiscal 51523  
year thereafter, recovers pursuant to a tort action under the 51524  
department's right of recovery under section 5101.58 of the 51525  
Revised Code that exceeds the state share of all money the 51526  
department, in fiscal year 2002, recovers pursuant to a tort 51527  
action under that right of recovery; 51528

(3) Subject to division (D) of this section, the amount of 51529  
the state share of all money the department of job and family 51530  
services, in fiscal year 2003 and each fiscal year thereafter, 51531  
recovers through audits of medicaid providers that exceeds the 51532  
state share of all money the department, in fiscal year 2002, 51533  
recovers through such audits; 51534

(4) ~~Until October 16, 2003, amounts~~ Amounts from assessments 51535  
on hospitals under section 5112.06 of the Revised Code and 51536  
intergovernmental transfers by governmental hospitals under 51537  
section 5112.07 of the Revised Code that are deposited into the 51538  
fund in accordance with the law. 51539

(C) No funds shall be deposited into the health care services 51540  
administration fund in violation of federal statutes or 51541  
regulations. 51542

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

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

**Sec. 5111.95.** (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment or, after the effective date of this section, an existing employee with 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. "Applicant" also means an existing employee with 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 after the effective date of this section.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Waiver agency" means a person or government entity that is not certified under the medicare program and is accredited by the community health accreditation program or the joint commission on accreditation of health care organizations or a company that provides home and community-based waiver services to persons with disabilities through department of job and family services administered home and community-based waiver programs. "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 51573  
pursuant to a contract entered into with the department of job and 51574  
family services under section 5111.871 of the Revised Code. 51575

(4) "Home and community-based waiver services" means services 51576  
furnished under the provision of 42 C.F.R. 441, subpart G, that 51577  
permit individuals to live in a home setting rather than a nursing 51578  
facility or hospital. Home and community-based waiver services are 51579  
approved by the centers for medicare and medicaid for specific 51580  
populations and are not otherwise available under the medicaid 51581  
state plan. 51582

(B)(1) The chief administrator of a waiver agency shall 51583  
request that the superintendent of the bureau of criminal 51584  
identification and investigation conduct a criminal records check 51585  
with respect to each applicant. If an applicant for whom a 51586  
criminal records check request is required under this division 51587  
does not present proof of having been a resident of this state for 51588  
the five-year period immediately prior to the date the criminal 51589  
records check is requested or provide evidence that within that 51590  
five-year period the superintendent has requested information 51591  
about the applicant from the federal bureau of investigation in a 51592  
criminal records check, the chief administrator shall request that 51593  
the superintendent obtain information from the federal bureau of 51594  
investigation as part of the criminal records check of the 51595  
applicant. Even if an applicant for whom a criminal records check 51596  
request is required under this division presents proof of having 51597  
been a resident of this state for the five-year period, the chief 51598  
administrator may request that the superintendent include 51599  
information from the federal bureau of investigation in the 51600  
criminal records check. 51601

(2) A person required by division (B)(1) of this section to 51602  
request a criminal records check shall do both of the following: 51603

(a) Provide to each applicant for whom a criminal records 51604

check request is required under division (B)(1) of this section a 51605  
copy of the form prescribed pursuant to division (C)(1) of section 51606  
109.572 of the Revised Code and a standard fingerprint impression 51607  
sheet prescribed pursuant to division (C)(2) of that section, and 51608  
obtain the completed form and impression sheet from the applicant; 51609

(b) Forward the completed form and impression sheet to the 51610  
superintendent of the bureau of criminal identification and 51611  
investigation. 51612

(3) An applicant provided the form and fingerprint impression 51613  
sheet under division (B)(2)(a) of this section who fails to 51614  
complete the form or provide fingerprint impressions shall not be 51615  
employed in any position in a waiver agency for which a criminal 51616  
records check is required by this section. 51617

(C)(1) Except as provided in rules adopted by the department 51618  
of job and family services in accordance with division (F) of this 51619  
section and subject to division (C)(2) of this section, no waiver 51620  
agency shall employ a person in a position that involves providing 51621  
home and community-based waiver services to persons with 51622  
disabilities if the person has been convicted of or pleaded guilty 51623  
to any of the following: 51624

(a) A violation of section 2903.01, 2903.02, 2903.03, 51625  
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 51626  
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 51627  
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 51628  
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 51629  
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 51630  
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 51631  
2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 51632  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 51633  
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 51634  
Revised Code, felonious sexual penetration in violation of former 51635  
section 2907.12 of the Revised Code, a violation of section 51636

2905.04 of the Revised Code as it existed prior to July 1, 1996, a 51637  
violation of section 2919.23 of the Revised Code that would have 51638  
been a violation of section 2905.04 of the Revised Code as it 51639  
existed prior to July 1, 1996, had the violation been committed 51640  
prior to that date; 51641

(b) An existing or former law of this state, any other state, 51642  
or the United States that is substantially equivalent to any of 51643  
the offenses listed in division (C)(1)(a) of this section. 51644

(2)(a) A waiver agency may employ conditionally an applicant 51645  
for whom a criminal records check request is required under 51646  
division (B) of this section prior to obtaining the results of a 51647  
criminal records check regarding the individual, provided that the 51648  
agency shall request a criminal records check regarding the 51649  
individual in accordance with division (B)(1) of this section not 51650  
later than five business days after the individual begins 51651  
conditional employment. 51652

(b) A waiver agency that employs an individual conditionally 51653  
under authority of division (C)(2)(a) of this section shall 51654  
terminate the individual's employment if the results of the 51655  
criminal records check request under division (B) of this section, 51656  
other than the results of any request for information from the 51657  
federal bureau of investigation, are not obtained within the 51658  
period ending sixty days after the date the request is made. 51659  
Regardless of when the results of the criminal records check are 51660  
obtained, if the results indicate that the individual has been 51661  
convicted of or pleaded guilty to any of the offenses listed or 51662  
described in division (C)(1) of this section, the agency shall 51663  
terminate the individual's employment unless the agency chooses to 51664  
employ the individual pursuant to division (F) of this section. 51665  
Termination of employment under this division shall be considered 51666  
just cause for discharge for purposes of division (D)(2) of 51667  
section 4141.29 of the Revised Code if the individual makes any 51668

attempt to deceive the agency about the individual's criminal record. 51669  
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(D)(1) Each waiver agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section. 51671  
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(2) A waiver agency may charge an applicant a fee not exceeding the amount the agency pays under division (D)(1) of this section. An agency may collect a fee only if the agency notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment. 51676  
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(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following: 51682  
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(1) The individual who is the subject of the criminal records check or the individual's representative; 51687  
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(2) The chief administrator of the agency requesting the criminal records check or the administrator's representative; 51689  
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(3) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant. 51691  
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(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 51695  
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meets personal character standards set by the department. 51700

(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. 51701  
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(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. 51708  
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(2) This section shall not apply to a person to whom all of the following apply: 51715  
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(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. 51717  
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(b) The person previously had been the subject of a criminal background check relating to that position; 51721  
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(c) The person has been continuously employed in that position since that criminal background check had been conducted. 51723  
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**Sec. 5111.96.** (A) As used in this section: 51725

(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. 51726  
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(2) "Criminal records check" has the same meaning as in 51729

<u>section 109.572 of the Revised Code.</u>	51730
<u>(3) "The department" means the department of job and family services or its designee.</u>	51731
	51732
<u>(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.</u>	51733
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<u>(5) "Home and community-based waiver services" has the same meaning as in section 5111.95 of the Revised Code.</u>	51739
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<u>(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 waiver program.</u>	51741
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<u>(2) Beginning on the effective date of this section, the department shall inform each enrolled medicaid independent provider on or before time of the anniversary date of the 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.</u>	51749
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<u>(C)(1) The department shall require the independent provider to complete a criminal records check prior to entering into a provider agreement with the independent provider and at least annually thereafter. If an independent provider for whom a criminal records check is required under this division does not</u>	51756
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present proof of having been a resident of this state for the 51761  
five-year period immediately prior to the date the criminal 51762  
records check is requested or provide evidence that within that 51763  
five-year period the superintendent has requested information 51764  
about the applicant from the federal bureau of investigation in a 51765  
criminal records check, the department shall request the 51766  
independent provider obtain through the superintendent a criminal 51767  
records request from the federal bureau of investigation as part 51768  
of the criminal records check of the independent provider. Even if 51769  
an independent provider for whom a criminal records check request 51770  
is required under this division presents proof of having been a 51771  
resident of this state for the five-year period, the department 51772  
may request that the independent provider obtain information 51773  
through the superintendent from the federal bureau of 51774  
investigation in the criminal records check. 51775

(2) The department shall do both of the following: 51776

(a) Provide information to each independent provider for whom 51777  
a criminal records check request is required under division (C)(1) 51778  
of this section about requesting a copy of the form prescribed 51779  
pursuant to division (C)(1) of section 109.572 of the Revised Code 51780  
and a standard fingerprint impression sheet prescribed pursuant to 51781  
division (C)(2) of that section, and obtain the completed form and 51782  
impression sheet and fee from the independent provider; 51783

(b) Forward the completed form, impression sheet, and fee to 51784  
the superintendent of the bureau of criminal identification and 51785  
investigation. 51786

(3) An independent provider given information about obtaining 51787  
the form and fingerprint impression sheet under division (C)(2)(a) 51788  
of this section who fails to complete the form or provide 51789  
fingerprint impressions shall not be approved as an independent 51790  
provider. 51791

(D) Except as provided in rules adopted by the department in accordance with division (G) of this section, the department shall not issue a new provider agreement to, and shall terminate an existing provider agreement of, an independent provider if the person has been convicted of or pleaded guilty to any of the following:

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

(2) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (D)(1) of this section.

(E) Each independent provider shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (C) of this section.



(F) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (C) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The administrator at the department who is requesting the criminal records check or the administrator's representative;

(3) Any court, hearing officer, or other necessary individual involved in a case dealing with a denial or termination of a provider agreement related to the criminal records check.

(G) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the department may issue a provider agreement to an independent provider who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department.

**Sec. 5111.97.** (A) The director of job and family services may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain waivers of federal medicaid requirements that would otherwise be violated in the creation and implementation of two medicaid home and community-based services programs to replace the Ohio home care program being operated pursuant to rules adopted under sections 5111.01 and 5111.02 of the Revised Code and a medicaid waiver granted prior to the effective date of this section. In the

request, the director may specify the following: 51853

(1) That one of the replacement programs will provide home and community-based services to individuals in need of nursing facility care, including individuals enrolled in the Ohio home care program; 51854  
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(2) That the other replacement program will provide services to individuals in need of hospital care, including individuals enrolled in the Ohio home care program; 51858  
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(3) That there will be a maximum number of individuals who may be enrolled in the replacement programs in addition to the number of individuals to be transferred from the Ohio home care program; 51861  
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(4) That there will be a maximum amount the department may expend each year for each individual enrolled in the replacement programs; 51865  
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(5) That there will be a maximum aggregate amount the department may expend each year for all individuals enrolled in the replacement programs; 51868  
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(6) Any other requirement the director selects for the replacement programs. 51871  
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(B) If the secretary grants the medicaid waivers requested, the director may create and implement the replacement programs in accordance with the provisions of the waivers granted. The department of job and family services shall administer the replacement programs. 51873  
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As the replacement programs are implemented, the director shall reduce the maximum number of individuals who may be enrolled in the Ohio home care program by the number of individuals who are transferred to the replacement programs. When all individuals who are eligible to be transferred to the replacement programs have 51878  
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been transferred, the director may submit to the secretary an 51883  
amendment to the state medicaid plan to provide for the 51884  
elimination of the Ohio home care program. 51885

**Sec. 5112.03.** (A) The director of job and family services 51886  
shall adopt, and may amend and rescind, rules in accordance with 51887  
Chapter 119. of the Revised Code for the purpose of administering 51888  
sections 5112.01 to 5112.21 of the Revised Code, including rules 51889  
that do all of the following: 51890

(1) Define as a "disproportionate share hospital" any 51891  
hospital included under subsection (b) of section 1923 of the 51892  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 51893  
1396r-4(b), as amended, and any other hospital the director 51894  
determines appropriate; 51895

(2) Prescribe the form for submission of cost reports under 51896  
section 5112.04 of the Revised Code; 51897

(3) Establish, in accordance with division (A) of section 51898  
5112.06 of the Revised Code, the assessment rate or rates to be 51899  
applied to hospitals under that section; 51900

(4) Establish schedules for hospitals to pay installments on 51901  
their assessments under section 5112.06 of the Revised Code and 51902  
for governmental hospitals to pay installments on their 51903  
intergovernmental transfers under section 5112.07 of the Revised 51904  
Code; 51905

(5) Establish procedures to notify hospitals of adjustments 51906  
made under division (B)(2)(b) of section 5112.06 of the Revised 51907  
Code in the amount of installments on their assessment; 51908

(6) Establish procedures to notify hospitals of adjustments 51909  
made under division (D) of section 5112.09 of the Revised Code in 51910  
the total amount of their assessment and to adjust for the 51911  
remainder of the program year the amount of the installments on 51912

the assessments;	51913
(7) Establish, in accordance with section 5112.08 of the Revised Code, the methodology for paying hospitals under that section.	51914 51915 51916
The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.	51917 51918 51919
(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:	51920 51921 51922
(1) Recipients of the medical assistance program;	51923
(2) <u>Recipients of financial assistance provided under Chapter 5115. of the Revised Code;</u>	51924 51925
<u>(3)</u> Recipients of <del>disability assistance</del> medical assistance provided under Chapter 5115. of the Revised Code;	51926 51927
<del>(3)</del> <u>(4)</u> Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;	51928 51929
<del>(4)</del> <u>(5)</u> Recipients of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended:	51930 51931 51932
<del>(5)</del> <u>(6)</u> Recipients of Title V of the "Social Security Act";	51933
<del>(6)</del> <u>(7)</u> Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act" and the rules adopted under that title.	51934 51935 51936
<b>Sec. 5112.08.</b> The director of job and family services shall adopt rules under section 5112.03 of the Revised Code establishing a methodology to pay hospitals that is sufficient to expend all money in the indigent care pool. Under the rules:	51937 51938 51939 51940
(A) The department of job and family services may classify	51941

similar hospitals into groups and allocate funds for distribution 51942  
within each group. 51943

(B) The department shall establish a method of allocating 51944  
funds to hospitals, taking into consideration the relative amount 51945  
of indigent care provided by each hospital or group of hospitals. 51946  
The amount to be allocated shall be based on any combination of 51947  
the following indicators of indigent care that the director 51948  
considers appropriate: 51949

(1) Total costs, volume, or proportion of services to 51950  
recipients of the medical assistance program, including recipients 51951  
enrolled in health insuring corporations; 51952

(2) Total costs, volume, or proportion of services to 51953  
low-income patients in addition to recipients of the medical 51954  
assistance program, which may include recipients of Title V of the 51955  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 51956  
amended, and disability recipients of financial or medical 51957  
assistance ~~established~~ provided under Chapter 5115. of the Revised 51958  
Code; 51959

(3) The amount of uncompensated care provided by the hospital 51960  
or group of hospitals; 51961

(4) Other factors that the director considers to be 51962  
appropriate indicators of indigent care. 51963

(C) The department shall distribute funds to each hospital or 51964  
group of hospitals in a manner that first may provide for an 51965  
additional distribution to individual hospitals that provide a 51966  
high proportion of indigent care in relation to the total care 51967  
provided by the hospital or in relation to other hospitals. The 51968  
department shall establish a formula to distribute the remainder 51969  
of the funds. The formula shall be consistent with section 1923 of 51970  
the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall 51971  
be based on any combination of the indicators of indigent care 51972

listed in division (B) of this section that the director considers 51973  
appropriate. 51974

(D) The department shall distribute funds to each hospital in 51975  
installments not later than ten working days after the deadline 51976  
established in rules for each hospital to pay an installment on 51977  
its assessment under section 5112.06 of the Revised Code. In the 51978  
case of a governmental hospital that makes intergovernmental 51979  
transfers, the department shall pay an installment under this 51980  
section not later than ten working days after the earlier of that 51981  
deadline or the deadline established in rules for the governmental 51982  
hospital to pay an installment on its intergovernmental transfer. 51983  
If the amount in the hospital care assurance program fund and the 51984  
hospital care assurance match fund created under section 5112.18 51985  
of the Revised Code is insufficient to make the total 51986  
distributions for which hospitals are eligible to receive in any 51987  
period, the department shall reduce the amount of each 51988  
distribution by the percentage by which the amount is 51989  
insufficient. The department shall distribute to hospitals any 51990  
amounts not distributed in the period in which they are due as 51991  
soon as moneys are available in the funds. 51992

**Sec. 5112.17.** (A) As used in this section: 51993

(1) "Federal poverty guideline" means the official poverty 51994  
guideline as revised annually by the United States secretary of 51995  
health and human services in accordance with section 673 of the 51996  
"Community Service Block Grant Act," 95 Stat. 511 (1981), 42 51997  
U.S.C.A. 9902, as amended, for a family size equal to the size of 51998  
the family of the person whose income is being determined. 51999

(2) "Third-party payer" means any private or public entity or 52000  
program that may be liable by law or contract to make payment to 52001  
or on behalf of an individual for health care services. 52002  
"Third-party payer" does not include a hospital. 52003

(B) Each hospital that receives funds distributed under 52004  
sections 5112.01 to 5112.21 of the Revised Code shall provide, 52005  
without charge to the individual, basic, medically necessary 52006  
hospital-level services to individuals who are residents of this 52007  
state, are not recipients of the medical assistance program, and 52008  
whose income is at or below the federal poverty guideline. 52009  
Recipients of disability financial assistance and recipients of 52010  
disability medical assistance provided under Chapter 5115. of the 52011  
Revised Code qualify for services under this section. The director 52012  
of job and family services shall adopt rules under section 5112.03 52013  
of the Revised Code specifying the hospital services to be 52014  
provided under this section. 52015

(C) Nothing in this section shall be construed to prevent a 52016  
hospital from requiring an individual to apply for eligibility 52017  
under the medical assistance program before the hospital processes 52018  
an application under this section. Hospitals may bill any 52019  
third-party payer for services rendered under this section. 52020  
Hospitals may bill the medical assistance program, in accordance 52021  
with Chapter 5111. of the Revised Code and the rules adopted under 52022  
that chapter, for services rendered under this section if the 52023  
individual becomes a recipient of the program. Hospitals may bill 52024  
individuals for services under this section if all of the 52025  
following apply: 52026

(1) The hospital has an established post-billing procedure 52027  
for determining the individual's income and canceling the charges 52028  
if the individual is found to qualify for services under this 52029  
section. 52030

(2) The initial bill, and at least the first follow-up bill, 52031  
is accompanied by a written statement that does all of the 52032  
following: 52033

(a) Explains that individuals with income at or below the 52034

federal poverty guideline are eligible for services without charge;	52035 52036
(b) Specifies the federal poverty guideline for individuals and families of various sizes at the time the bill is sent;	52037 52038
(c) Describes the procedure required by division (C)(1) of this section.	52039 52040
(3) The hospital complies with any additional rules the department adopts under section 5112.03 of the Revised Code.	52041 52042
Notwithstanding division (B) of this section, a hospital providing care to an individual under this section is subrogated to the rights of any individual to receive compensation or benefits from any person or governmental entity for the hospital goods and services rendered.	52043 52044 52045 52046 52047
(D) Each hospital shall collect and report to the department, in the form and manner prescribed by the department, information on the number and identity of patients served pursuant to this section.	52048 52049 52050 52051
(E) This section applies beginning May 22, 1992, regardless of whether the department has adopted rules specifying the services to be provided. Nothing in this section alters the scope or limits the obligation of any governmental entity or program, including the program awarding reparations to victims of crime under sections 2743.51 to 2743.72 of the Revised Code and the program for medically handicapped children established under section 3701.023 of the Revised Code, to pay for hospital services in accordance with state or local law.	52052 52053 52054 52055 52056 52057 52058 52059 52060
<b>Sec. 5112.31.</b> The department of job and family services shall:	52061 52062
(A) For the purpose of providing home and community-based services for mentally retarded and developmentally disabled	52063 52064



persons, annually assess each intermediate care facility for the 52065  
mentally retarded a franchise permit fee equal to nine dollars and 52066  
~~twenty-four~~ sixty-three cents multiplied by the product of the 52067  
following: 52068

(1) The number of beds certified under Title XIX of the 52069  
"Social Security Act" on the first day of May of the calendar year 52070  
in which the assessment is determined pursuant to division (A) of 52071  
section 5112.33 of the Revised Code; 52072

(2) The number of days in the fiscal year beginning on the 52073  
first day of July of the same calendar year. 52074

(B) ~~Not later than~~ Beginning July 1, ~~1996~~ 2005, and the first 52075  
day of each July thereafter, adjust fees determined under division 52076  
(A) of this section in accordance with the composite inflation 52077  
factor established in rules adopted under section 5112.39 of the 52078  
Revised Code. 52079

If the United States secretary of health and human services 52080  
determines that the franchise permit fee established by sections 52081  
5112.30 to 5112.39 of the Revised Code would be an impermissible 52082  
health care-related tax under section 1903(w) of the "Social 52083  
Security Act," 42 U.S.C.A. 1396b(w), as amended, the department 52084  
shall take all necessary actions to cease implementation of those 52085  
sections in accordance with rules adopted under section 5112.39 of 52086  
the Revised Code. 52087

**Sec. 5112.99.** (A) The director of job and family services 52088  
shall impose a penalty ~~of one hundred dollars~~ for each day that a 52089  
hospital fails to report the information required under section 52090  
5112.04 of the Revised Code on or before the dates specified in 52091  
that section. The amount of the penalty shall be established by 52092  
the director in rules adopted under section 5112.03 of the Revised 52093  
Code. 52094

(B) In addition to any other remedy available to the 52095  
department of job and family services under law to collect unpaid 52096  
assessments and transfers, the director shall impose a penalty of 52097  
ten per cent of the amount due, ~~not to exceed twenty thousand~~ 52098  
~~dollars,~~ on any hospital that fails to pay assessments or make 52099  
intergovernmental transfers by the dates required by rules adopted 52100  
under section 5112.03 of the Revised Code. 52101

(C) The director shall waive the penalties provided for in 52102  
divisions (A) and (B) of this section for good cause shown by the 52103  
hospital. 52104

(D) All penalties imposed under this section shall be 52105  
deposited into the ~~general revenue~~ health care administration fund 52106  
created by section 5111.94 of the Revised Code. 52107

**Sec. 5115.01.** (A) ~~There is hereby established~~ The director of 52108  
job and family services shall establish the disability financial 52109  
assistance program. ~~Except as provided in division (D) of this~~ 52110  
~~section, a disability assistance recipient shall receive financial~~ 52111  
~~assistance. Except as provided in section 5115.11 of the Revised~~ 52112  
~~Code, a disability assistance recipient also shall receive~~ 52113  
~~disability assistance medical assistance.~~ 52114

~~Except as provided by division (B) of this section, a person~~ 52115  
~~who meets all of the following requirements is~~ (B) Subject to all 52116  
other eligibility requirements established by this chapter and the 52117  
rules adopted under it for the disability financial assistance 52118  
program, a person may be eligible for disability financial 52119  
assistance only if one of the following applies: 52120

(1) The person is ~~ineligible to participate in the Ohio works~~ 52121  
~~first program established under Chapter 5107. of the Revised Code~~ 52122  
~~and to receive supplemental security income provided pursuant to~~ 52123  
~~Title XVI of the Social Security Act, 86 Stat. 1475 (1972), 42~~ 52124

U.S.C.A. 1383, as amended;	52125
<del>(2) The person is at least one of the following:</del>	52126
<del>(a) Under age eighteen;</del>	52127
<del>(b) Age sixty or older;</del>	52128
<del>(c) Pregnant;</del>	52129
<del>(d) Unable <u>unable</u> to do any substantial or gainful activity</del>	52130
by reason of a medically determinable physical or mental	52131
impairment that can be expected to result in death or has lasted	52132
or can be expected to last for not less than nine months;	52133
<del>(e) A resident of a residential treatment center certified as</del>	52134
<del>an alcohol or drug addiction program by the department of alcohol</del>	52135
<del>and drug addiction services under section 3793.06 of the Revised</del>	52136
<del>Code.</del>	52137
<del>(f) Medication dependent as determined by a physician, as</del>	52138
<del>defined in section 4730.01 of the Revised Code, who has certified</del>	52139
<del>to the county department of job and family services that the</del>	52140
<del>person is receiving ongoing treatment for a chronic medical</del>	52141
<del>condition requiring continuous prescription medication for an</del>	52142
<del>indefinite, long term period of time and for whom the loss of the</del>	52143
<del>medication would result in a significant risk of medical emergency</del>	52144
<del>and loss of employability lasting at least nine months.</del>	52145
<del>(3) <u>The (2) On the day before the effective date of this</u></del>	52146
<del><u>amendment, the person meets the eligibility requirements</u></del>	52147
<del>established in rules adopted under section 5115.05 of the Revised</del>	52148
<del>Code <u>was sixty years of age or older and one of the following is</u></del>	52149
<del><u>the case:</u></del>	52150
<del>(a) <u>The person was receiving or was scheduled to begin</u></del>	52151
<del><u>receiving financial assistance under this chapter on the basis of</u></del>	52152
<del><u>being sixty years of age or older;</u></del>	52153
<del>(b) <u>An eligibility determination was pending regarding the</u></del>	52154

person's application to receive financial assistance under this 52155  
chapter on the basis of being sixty years of age or older and, on 52156  
or after the effective date of this amendment, the person receives 52157  
a determination of eligibility based on that application. 52158

~~(B)(1) A person is ineligible for disability assistance if~~ 52159  
~~the person is ineligible to participate in the Ohio works first~~ 52160  
~~program because of any of the following:~~ 52161

~~(a) Section 5101.83, 5107.14, or 5107.16 of the Revised Code;~~ 52162

~~(b) The time limit established by section 5107.18 of the~~ 52163  
~~Revised Code;~~ 52164

~~(c) Failure to comply with an application or verification~~ 52165  
~~procedure;~~ 52166

~~(d) The fraud control program established pursuant to 45~~ 52167  
~~C.F.R. 235.112, as in effect July 1, 1996.~~ 52168

~~(2) A person under age eighteen is ineligible for disability~~ 52169  
~~assistance pursuant to division (B)(1)(a) of this section only if~~ 52170  
~~the person caused the assistance group to be ineligible to~~ 52171  
~~participate in the Ohio works first program or resides with a~~ 52172  
~~person age eighteen or older who was a member of the same~~ 52173  
~~ineligible assistance group. A person age eighteen or older is~~ 52174  
~~ineligible for disability assistance pursuant to division~~ 52175  
~~(B)(1)(a) of this section regardless of whether the person caused~~ 52176  
~~the assistance group to be ineligible to participate in the Ohio~~ 52177  
~~works first program.~~ 52178

~~(C) The county department of job and family services that~~ 52179  
~~serves the county in which a person receiving disability~~ 52180  
~~assistance pursuant to division (A)(2)(c) of this section~~ 52181  
~~participates in an alcohol or drug addiction program shall~~ 52182  
~~designate a representative payee for purposes of receiving and~~ 52183  
~~distributing financial assistance provided under the disability~~ 52184  
~~assistance program to the person.~~ 52185

~~(D) A person eligible for disability assistance pursuant to division (A)(2)(f) of this section shall not receive financial assistance.~~ 52186  
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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.~~ 52189  
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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: 52194  
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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;~~ 52197  
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~~(2) The individual is ineligible to participate in the Ohio works first program because of any of the following:~~ 52206  
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~~(a) The time limit established by section 5107.18 of the Revised Code;~~ 52208  
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~~(b) Failure to comply with an application or verification procedure;~~ 52210  
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~~(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;~~ 52212  
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~~(d) The self-sufficiency contract provisions of sections~~ 52215

<u>5107.14 and 5107.16 of the Revised Code;</u>	52216
<u>(e) The minor parent provisions of section 5107.24 of the Revised Code;</u>	52217
<u>(f) The provisions of section 5107.26 of the Revised Code regarding termination of employment without just cause.</u>	52218
<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>	52219
<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>	52220
<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>	52221
<u>(8) The individual reside in a county home, city infirmary, jail, or public institution;</u>	52222
<u>(9) The individual is a fugitive felon as defined in section 5101.26 of the Revised Code;</u>	52223
<u>(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.</u>	52224
<u>(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.</u>	52225
<u>(2) Ineligibility under division (A)(2)(c) or (d) of this section applies as follows:</u>	52226
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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. 52246  
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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. 52252  
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**Sec. 5115.03.** (A) The director of job and family services shall do both of the following: 52256  
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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. 52258  
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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 any or all of the following: 52263  
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(1) Maximum payment amounts under the disability financial assistance program, based on state appropriations for the program; 52267  
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(2) Limits on the length of time an individual may receive disability financial assistance; 52269  
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(3) Limits on the total number of individuals in the state who may receive disability financial assistance; 52271  
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(4) Income, resource, citizenship, age, residence, living arrangement, and other eligibility requirements for disability financial assistance; 52273  
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(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; 52276  
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(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. 52280  
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(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. 52284  
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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. 52296  
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(D) For purposes of limiting the cost of the disability financial assistance program, the director may do either or both 52305  
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of the following: 52307

(1) Adopt rules in accordance with section 111.15 of the 52308  
Revised Code that revise the program's eligibility requirements, 52309  
the maximum payment amounts, or any other requirement or standard 52310  
established or specified in the rules adopted by the director; 52311

(2) Suspend acceptance of applications for disability 52312  
financial assistance. While a suspension is in effect, no person 52313  
shall receive a determination or redetermination of eligibility 52314  
for disability financial assistance unless the person was 52315  
receiving the assistance during the month immediately preceding 52316  
the suspension's effective date or the person submitted an 52317  
application prior to the suspension's effective date and receives 52318  
a determination of eligibility based on that application. The 52319  
director may adopt rules in accordance with section 111.15 of the 52320  
Revised Code establishing requirements and specifying procedures 52321  
applicable to the suspension of acceptance of new applications. 52322

**Sec. 5115.02 5115.04.** (A) The department of job and family 52323  
services shall supervise and administer the disability financial 52324  
assistance program, except that the department may require county 52325  
departments of job and family services to perform any 52326  
administrative function specified in rules adopted by the director 52327  
of job and family services, ~~including making determinations of~~ 52328  
~~financial eligibility and initial determinations of whether an~~ 52329  
~~applicant meets a condition of eligibility under division~~ 52330  
~~(A)(2)(d) of section 5115.01 of the Revised Code, distributing~~ 52331  
~~financial assistance payments, reimbursing providers of medical~~ 52332  
~~services for services provided to disability assistance~~ 52333  
~~recipients, and any other function specified in the rules. The~~ 52334  
~~department may also require county departments to make a final~~ 52335  
~~determination of whether an applicant meets a condition for~~ 52336  
~~eligibility under division (A)(2)(a), (b), (c), (e), or (f) of~~ 52337

~~section 5115.01 of the Revised Code. The department shall make the~~ 52338  
~~final determination of whether an applicant meets a condition of~~ 52339  
~~eligibility under division (A)(2)(d) of section 5115.01 of the~~ 52340  
~~Revised Code.~~ 52341

(B) If the department requires county departments to perform 52342  
administrative functions under this section, the director shall 52343  
adopt rules in accordance with section 111.15 of the Revised Code 52344  
governing the performance of the functions to be performed by 52345  
county departments. County departments shall perform the functions 52346  
in accordance with the rules. The director shall conduct 52347  
investigations to determine whether disability financial 52348  
assistance is being administered in compliance with the Revised 52349  
Code and rules adopted by the director. 52350

(C) If disability financial assistance payments ~~or medical~~ 52351  
~~services reimbursements~~ are made by the county department of job 52352  
and family services, the department shall advance sufficient funds 52353  
to provide the county treasurer with the amount estimated for the 52354  
payments ~~or reimbursements~~. Financial assistance payments shall be 52355  
distributed in accordance with sections 117.45, 319.16, and 329.03 52356  
of the Revised Code. 52357

**Sec. 5115.05.** (A) The director of job and family services 52358  
shall adopt rules in accordance with section 111.15 of the Revised 52359  
Code establishing application and verification procedures, 52360  
reapplication procedures, and ~~income, resource, citizenship, age,~~ 52361  
~~residence, living arrangement, assistance group composition, and~~ 52362  
other ~~eligibility~~ requirements the director considers necessary in 52363  
the administration of the application process for disability 52364  
financial assistance. The rules may ~~provide for disregarding~~ 52365  
~~amounts of earned and unearned income for the purpose of~~ 52366  
~~determining whether an assistance group is eligible for assistance~~ 52367  
~~and the amount of assistance provided under this chapter. The~~ 52368

~~rules also may provide that the income and resources, or a certain amount of the income and resources, of a member of an assistance group's family group will be included in determining whether the assistance group is eligible for aid and the amount of aid provided under this chapter.~~

~~If financial assistance under this chapter is to be paid by the auditor of state through the medium of direct deposit, the application shall be accompanied by information the auditor needs to make direct deposits.~~

~~The department of job and family services may require recipients of disability financial assistance to participate in a reapplication process two months after initial approval for assistance has been determined and at such other times as specified in the department requires rules.~~

~~If a recipient of disability assistance, or the spouse of or member of the assistance group of a recipient, becomes possessed of resources or income in excess of the amount allowed under rules adopted under this section, or if other changes occur that affect the person's eligibility or need for assistance, the recipient shall notify the department or county department of job and family services within the time limits specified in the rules. Failure of a recipient to report possession of excess resources or income or a change affecting eligibility or need within those time limits shall be considered prima facie evidence of intent to defraud under section 5115.15 of the Revised Code.~~

~~Each applicant for or recipient of disability assistance shall make reasonable efforts to secure support from persons responsible for the applicant's or recipient's support, and from other sources, as a means of preventing or reducing the provision of disability assistance at public expense. The department or county department may provide assistance to the applicant or recipient in securing other forms of financial or medical~~

~~assistance.~~ 52401

~~Notwithstanding section 3109.01 of the Revised Code, when a 52402  
disability assistance applicant or recipient who is at least 52403  
eighteen but under twenty two years of age resides with the 52404  
applicant's or recipient's parents, the income of the parents 52405  
shall be taken into account in determining the applicant's or 52406  
recipient's financial eligibility. The director shall adopt rules 52407  
for determining the amount of income to be attributed to the 52408  
assistance group of applicants in this age category.~~ 52409

~~(B) Any person who applies for disability financial 52410  
assistance ~~under this section~~ shall receive a voter registration 52411  
application under section 3503.10 of the Revised Code.~~ 52412

~~Sec. 5115.07 5115.06. Financial assistance Assistance under 52413  
the disability financial assistance program may be given by 52414  
warrant, direct deposit, or, if provided by the director of job 52415  
and family services pursuant to section 5101.33 of the Revised 52416  
Code, by electronic benefit transfer. It shall be inalienable 52417  
whether by way of assignment, charge, or otherwise, and is exempt 52418  
from attachment, garnishment, or other like process. ~~Any~~ 52419~~

~~Any direct deposit shall be made to a financial institution 52420  
and account designated by the recipient. ~~The If disability~~ 52421  
financial assistance is to be paid by the auditor of state through 52422  
direct deposit, the application for assistance shall be 52423  
accompanied by information the auditor needs to make direct 52424  
deposits. 52425~~

~~The director of job and family services may adopt rules for 52426  
designation of financial institutions and accounts. ~~No~~ 52427~~

~~No financial institution shall impose any charge for direct 52428  
deposit of disability ~~assistance~~ financial assistance payments 52429  
that it does not charge all customers for similar services. 52430~~

~~The department of job and family services shall establish financial assistance payment amounts based on state appropriations.~~

~~Disability assistance may be given to persons living in their own homes or other suitable quarters, but shall not be given to persons who reside in a county home, city infirmary, jail, or public institution. Disability assistance shall not be given to an unemancipated child unless the child lives with the child's parents, guardians, or other persons standing in place of parents. For the purpose of this section, a child is emancipated if the child is married, serving in the armed forces, or has been emancipated by court order.~~

~~No person shall be eligible for disability assistance if, for the purpose of avoiding consideration of property in determinations of the person's eligibility for disability assistance or a greater amount of assistance, the person has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability assistance.~~

**Sec. 5115.13 5115.07.** The acceptance of disability financial assistance under ~~this chapter~~ the disability financial assistance program constitutes an assignment to the department of job and family services of any rights an individual receiving ~~disability~~ the assistance has to financial support from any other person, ~~excluding medical support assigned pursuant to section 5101.59 of the Revised Code.~~ The rights to support assigned to the department pursuant to this section constitute an obligation of the person responsible for providing the support to the state for the amount of disability financial assistance payments to the recipient or recipients whose needs are included in determining the amount of ~~disability~~ assistance received. Support payments assigned to the

state pursuant to this section shall be collected by the county 52462  
department of job and family services and reimbursements for 52463  
disability financial assistance payments shall be credited to the 52464  
state treasury. 52465

**Sec. 5115.10.** (A) The director of job and family services 52466  
shall establish a disability assistance medical assistance program 52467  
shall consist of a system of managed primary care. Until July 1, 52468  
1992, the program shall also include limited hospital services, 52469  
except that if prior to that date hospitals are required by 52470  
section 5112.17 of the Revised Code to provide medical services 52471  
without charge to persons specified in that section, the program 52472  
shall cease to include hospital services at the time the 52473  
requirement of section 5112.17 of the Revised Code takes effect. 52474

~~The department of job and family services may require~~ 52475  
~~disability assistance medical assistance recipients to enroll in~~ 52476  
~~health insuring corporations or other managed care programs, or~~ 52477  
~~may limit the number or type of health care providers from which a~~ 52478  
~~recipient may receive services.~~ 52479

~~The director of job and family services shall adopt rules~~ 52480  
~~governing the disability assistance medical assistance program~~ 52481  
~~established under this division. The rules shall specify all of~~ 52482  
~~the following:~~ 52483

~~(1) Services that will be provided under the system of~~ 52484  
~~managed primary care;~~ 52485

~~(2) Hospital services that will be provided during the period~~ 52486  
~~that hospital services are provided under the program;~~ 52487

~~(3) The maximum authorized amount, scope, duration, or limit~~ 52488  
~~of payment for services.~~ 52489

~~(B) The director of job and family services shall designate~~ 52490  
~~medical services providers for the disability assistance medical~~ 52491

~~assistance program. The first such designation shall be made not 52492  
later than September 30, 1991. Services under the program shall be 52493  
provided only by providers designated by the director. The 52494  
director may require that, as a condition of being designated a 52495  
disability assistance medical assistance provider, a provider 52496  
enter into a provider agreement with the state department. 52497~~

~~(C) As long as the disability assistance medical assistance 52498  
program continues to include hospital services, the department or 52499  
a county director of job and family services may, pursuant to 52500  
rules adopted under this section, approve an application for 52501  
disability assistance medical assistance for emergency inpatient 52502  
hospital services when care has been given to a person who had not 52503  
completed a sworn application for disability assistance at the 52504  
time the care was rendered, if all of the following apply: 52505~~

~~(1) The person files an application for disability assistance 52506  
within sixty days after being discharged from the hospital or, if 52507  
the conditions of division (D) of this section are met, while in 52508  
the hospital; 52509~~

~~(2) The person met all eligibility requirements for 52510  
disability assistance at the time the care was rendered; 52511~~

~~(3) The care given to the person was a medical service within 52512  
the scope of disability assistance medical assistance as 52513  
established under rules adopted by the director of job and family 52514  
services. 52515~~

~~(D) If a person files an application for disability 52516  
assistance medical assistance for emergency inpatient hospital 52517  
services while in the hospital, a face to face interview shall be 52518  
conducted with the applicant while the applicant is in the 52519  
hospital to determine whether the applicant is eligible for the 52520  
assistance. If the hospital agrees to reimburse the county 52521  
department of job and family services for all actual costs 52522~~

~~incurred by the department in conducting the interview, the 52523  
interview shall be conducted by an employee of the county 52524  
department. If, at the request of the hospital, the county 52525  
department designates an employee of the hospital to conduct the 52526  
interview, the interview shall be conducted by the hospital 52527  
employee. 52528~~

~~(E) The department of job and family services may assume 52529  
responsibility for peer review of expenditures for disability 52530  
assistance medical assistance (B) Subject to all other eligibility 52531  
requirements established by this chapter and the rules adopted 52532  
under it for the disability medical assistance program, a person 52533  
may be eligible for disability medical assistance only if the 52534  
person is medication dependent, as determined by the department of 52535  
job and family services. 52536~~

~~(C) The director shall adopt rules under section 111.15 of 52537  
the Revised Code for purposes of implementing division (B) of this 52538  
section. The rules may specify or establish any or all of the 52539  
following: 52540~~

~~(1) Standards for determining whether a person is medication 52541  
dependent, including standards under which a person may qualify as 52542  
being medication dependent only if it is determined that both of 52543  
the following are the case: 52544~~

~~(a) The person is receiving ongoing treatment for a chronic 52545  
medical condition that requires continuous prescription medication 52546  
for an indefinite, long-term period of time; 52547~~

~~(b) Loss of the medication would result in a significant risk 52548  
of medical emergency and loss of employability lasting at least 52549  
nine months. 52550~~

~~(2) A requirement that a person's medical condition be 52551  
certified by an individual authorized under Chapter 4731. of the 52552  
Revised Code to practice medicine and surgery or osteopathic 52553~~



<u>medicine and surgery;</u>	52554
<u>(3) Limitations on the chronic medical conditions and prescription medications that may qualify a person as being medication dependent.</u>	52555
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	52557
<b>Sec. 5115.11.</b> <del>If a member of an assistance group receiving disability assistance under this chapter</del> <u>An individual who</u> qualifies for the medical assistance program established under Chapter 5111. of the Revised Code, <del>the member</del> shall receive medical assistance through that program rather than through the disability <del>assistance</del> medical assistance program.	52558
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<u>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.</u>	52564
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	52570
<b>Sec. 5115.12.</b> <u>(A) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code governing the disability medical assistance program. The rules may establish or specify any or all of the following:</u>	52571
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	52574
<u>(1) Income, resource, citizenship, age, residence, living arrangement, and other eligibility requirements;</u>	52575
	52576
<u>(2) Health services to be included in the program;</u>	52577
<u>(3) The maximum authorized amount, scope, duration, or limit of payment for services;</u>	52578
	52579
<u>(4) Limits on the length of time an individual may receive disability medical assistance;</u>	52580
	52581
<u>(5) Limits on the total number of individuals in the state</u>	52582

who may receive disability medical assistance. 52583

(B) For purposes of limiting the cost of the disability medical assistance program, the director may do either of the following: 52584  
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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 authorized amount, scope, duration, or limit of payment for services included in the program; or any other requirement or standard established or specified by rules adopted under division (A) of this section or under section 5115.10 of the Revised Code; 52587  
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(2) Suspend acceptance of applications for disability medical assistance. While a suspension is in effect, no person shall receive a determination or redetermination of eligibility for disability medical 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. 52594  
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**Sec. 5115.13.** (A) The department of job and family services shall supervise and administer the disability medical program, except as follows: 52605  
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(1) The department may require county departments of job and family services to perform any administrative function specified in rules adopted by the director of job and family services. 52608  
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(2) The director may contract with any private or public entity in this state to perform any administrative function or to 52611  
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administer any or all of the program. 52613

(B) If the department requires county departments to perform administrative functions, the director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code governing the performance of the functions to be performed by county departments. County departments shall perform the functions in accordance with the rules. 52614  
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If the director contracts with a private or public entity to perform administrative functions or to administer any or all of the program, the director may either adopt rules in accordance with section 111.15 of the Revised Code or include provisions in the contract governing the performance of the functions by the private or public entity. Entities under contract shall perform the functions in accordance with the requirements established by the director. 52620  
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(C) Whenever division (A)(1) or (2) of this section is implemented, the director shall conduct investigations to determine whether disability medical assistance is being administered in compliance with the Revised Code and rules adopted by the director or in accordance with the terms of the contract. 52628  
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**Sec. 5115.14.** (A) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code establishing application and verification procedures, reapplication procedures, and other requirements the director considers necessary in the administration of the application process for disability medical assistance. 52633  
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(B) Any person who applies for disability medical assistance shall receive a voter registration application under section 3503.10 of the Revised Code. 52639  
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**Sec. 5115.20.** (A) The department of job and family services 52642

shall establish a disability advocacy program and each county 52643  
department of job and family services shall establish a disability 52644  
advocacy program unit or join with other county departments of job 52645  
and family services to establish a joint county disability 52646  
advocacy program unit. Through the program the department and 52647  
county departments shall cooperate in efforts to assist applicants 52648  
for and recipients of assistance under ~~this chapter~~ the disability 52649  
financial assistance program and the disability medical assistance 52650  
program, who might be eligible for supplemental security income 52651  
benefits under Title XVI of the "Social Security Act," 86 Stat. 52652  
1475 (1972), 42 U.S.C.A. 1383, as amended, in applying for those 52653  
benefits. ~~The~~ 52654

As part of their disability advocacy programs, the state 52655  
department and county departments may enter into contracts for the 52656  
~~services to applicants for and recipients of assistance under this~~ 52657  
~~chapter who might be eligible for supplemental security income~~ 52658  
~~benefits with~~ of persons and ~~governmental~~ government entities that 52659  
in the judgment of the department or county department have 52660  
demonstrated expertise in representing persons seeking 52661  
supplemental security income benefits. Each contract shall require 52662  
the person or entity with which a department contracts to assess 52663  
each person referred to it by the department to determine whether 52664  
the person appears to be eligible for supplemental security income 52665  
benefits, and, if the person appears to be eligible, assist the 52666  
person in applying and represent the person in any proceeding of 52667  
the social security administration, including any appeal or 52668  
reconsideration of a denial of benefits. The department or county 52669  
department shall provide to the person or entity with which it 52670  
contracts all records in its possession relevant to the 52671  
application for supplemental security income benefits. The 52672  
department shall require a county department with relevant records 52673  
to submit them to the person or entity. 52674

(B) Each applicant for or recipient of disability financial assistance or disability medical assistance ~~under this chapter~~ who, in the judgment of the department or a county department might be eligible for supplemental security benefits, ~~must~~ shall, as a condition of eligibility for assistance, apply for such benefits if directed to do so by the department or county department.

(C) ~~Each~~ With regard to applicants for and recipients of disability financial assistance or disability medical assistance, ~~each~~ county department of job and family services shall do all of the following:

(1) Identify applicants ~~for~~ and recipients of ~~assistance under this chapter~~ who might be eligible for supplemental security income benefits;

(2) Assist applicants ~~for~~ and recipients of ~~assistance under this chapter~~ in securing documentation of disabling conditions or refer them for such assistance to a person or government ~~agency~~ entity with which the department or county department has contracted under division (A) of this section;

(3) Inform applicants ~~for~~ and recipients of ~~assistance under this chapter~~ of available sources of representation, which may include a person or government entity with which the department or county department has contracted under division (A) of this section, and of their right to represent themselves in reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits. The county department may require the applicants and recipients, as a condition of eligibility for assistance, to pursue reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits, and shall assist applicants and recipients as necessary to obtain

such benefits or refer them to a person or government ~~agency~~ 52706  
entity with which the department or county department has 52707  
contracted under division (A) of this section. 52708

(4) Require applicants ~~for~~ and recipients ~~of assistance under~~ 52709  
~~this chapter~~ who, in the judgment of the county department, are or 52710  
may be aged, blind, or disabled, to apply for medical assistance 52711  
under Chapter 5111. of the Revised Code, make determinations when 52712  
appropriate as to eligibility for medical assistance, and refer 52713  
their applications when necessary to the disability determination 52714  
unit established in accordance with division (F) of this section 52715  
for expedited review; 52716

(5) Require each applicant ~~for~~ and ~~each~~ recipient ~~of~~ 52717  
~~assistance under this chapter~~ who in the judgment of the 52718  
department or the county department might be eligible for 52719  
supplemental security income benefits, as a condition of 52720  
eligibility for disability financial assistance or disability 52721  
medical assistance ~~under this chapter~~, to execute a written 52722  
authorization for the secretary of health and human services to 52723  
withhold benefits due that individual and pay to the director of 52724  
job and family services or the director's designee an amount 52725  
sufficient to reimburse the state and county shares of interim 52726  
assistance furnished to the individual. For the purposes of 52727  
division (C)(5) of this section, "benefits" and "interim 52728  
assistance" have the meanings given in Title XVI of the "Social 52729  
Security Act." 52730

(D) The director of job and family services shall adopt rules 52731  
in accordance with ~~Chapter 119.~~ section 111.15 of the Revised Code 52732  
for the effective administration of the disability advocacy 52733  
program. The rules shall include all of the following: 52734

(1) Methods to be used in collecting information from and 52735  
disseminating it to county departments, including the following: 52736

(a) The number of <u>individuals in the county who are</u> disabled	52737
recipients of <u>disability financial assistance or disability</u>	52738
<u>medical</u> assistance <del>under this chapter in the county;</del>	52739
(b) The final decision made either by the social security	52740
administration or by a court for each application or	52741
reconsideration in which an individual was assisted pursuant to	52742
this section.	52743
(2) The type and process of training to be provided by the	52744
department of job and family services to the employees of the	52745
county department of job and family services who perform duties	52746
under this section;	52747
(3) Requirements for the written authorization required by	52748
division (C)(5) of this section.	52749
(E) The department shall provide basic and continuing	52750
training to employees of the county department of job and family	52751
services who perform duties under this section. Training shall	52752
include but not be limited to all processes necessary to obtain	52753
federal disability benefits, and methods of advocacy.	52754
(F) The department shall establish a disability determination	52755
unit and develop guidelines for expediting reviews of applications	52756
for medical assistance under Chapter 5111. of the Revised Code for	52757
persons who have been referred to the unit under division (C)(4)	52758
of this section. The department shall make determinations of	52759
eligibility for medical assistance for any such person within the	52760
time prescribed by federal regulations.	52761
(G) The department may, under rules the director of job and	52762
family services adopts in accordance with section 111.15 of the	52763
Revised Code, pay a portion of the federal reimbursement described	52764
in division (C)(5) of this section to persons or <del>agencies</del>	52765
<u>government entities</u> that assist or represent assistance recipients	52766
in reconsiderations and appeals of social security administration	52767

decisions denying them supplemental security income benefits. 52768

(H) The director shall conduct investigations to determine 52769  
whether disability advocacy programs are being administered in 52770  
compliance with the Revised Code and the rules adopted by the 52771  
director pursuant to this section. 52772

**Sec. 5115.22.** (A) If a recipient of disability financial 52773  
assistance or disability medical assistance, or an individual 52774  
whose income and resources are included in determining the 52775  
recipient's eligibility for the assistance, becomes possessed of 52776  
resources or income in excess of the amount allowed to retain 52777  
eligibility, or if other changes occur that affect the recipient's 52778  
eligibility or need for assistance, the recipient shall notify the 52779  
state or county department of job and family services within the 52780  
time limits specified in rules adopted by the director of job and 52781  
family services in accordance with section 111.15 of the Revised 52782  
Code. Failure of a recipient to report possession of excess 52783  
resources or income or a change affecting eligibility or need 52784  
within those time limits shall be considered prima-facie evidence 52785  
of intent to defraud under section 5115.23 of the Revised Code. 52786

(B) As a condition of eligibility for disability financial 52787  
assistance or disability medical assistance, and as a means of 52788  
preventing or reducing the provision of assistance at public 52789  
expense, each applicant for or recipient of the assistance shall 52790  
make reasonable efforts to secure support from persons responsible 52791  
for the applicant's or recipient's support, and from other 52792  
sources, including any federal program designed to provide 52793  
assistance to individuals with disabilities. The state or county 52794  
department of job and family services may provide assistance to 52795  
the applicant or recipient in securing other forms of financial 52796  
assistance. 52797



**Sec. ~~5115.15~~ 5115.23.** As used in this section, "erroneous payments" means disability financial assistance payments, ~~including or~~ disability ~~assistance~~ medical assistance payments, made to persons who are not entitled to receive them, including payments made as a result of misrepresentation or fraud, and payments made due to an error by the recipient or by the county department of job and family services that made the payment.

The department of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code specifying the circumstances under which action is to be taken under this section to recover erroneous payments. The department, or a county department of job and family services at the request of the department, shall take action to recover erroneous payments in the circumstances specified in the rules. The department or county department may institute a civil action to recover erroneous payments.

Whenever disability financial assistance or disability medical assistance has been furnished to a recipient for whose support another person is responsible, the other person shall, in addition to the liability otherwise imposed, as a consequence of failure to support the recipient, be liable for all ~~disability~~ assistance furnished the recipient. The value of the assistance so furnished may be recovered in a civil action brought by the county department of job and family services.

Each county department of job and family services shall retain fifty per cent of the erroneous payments it recovers under this section. The department of job and family services shall receive the remaining fifty per cent.

**Sec. 5119.61.** Any provision in this chapter that refers to a board of alcohol, drug addiction, and mental health services also

refers to the community mental health board in an alcohol, drug 52828  
addiction, and mental health service district that has a community 52829  
mental health board. 52830

The director of mental health with respect to all facilities 52831  
and programs established and operated under Chapter 340. of the 52832  
Revised Code for mentally ill and emotionally disturbed persons, 52833  
shall do all of the following: 52834

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 52835  
that may be necessary to carry out the purposes of Chapter 340. 52836  
and sections 5119.61 to 5119.63 of the Revised Code. 52837

(1) The rules shall include all of the following: 52838

(a) Rules governing a community mental health agency's 52839  
services under section 340.091 of the Revised Code to an 52840  
individual referred to the agency under division (C)(2) of section 52841  
173.35 of the Revised Code; 52842

(b) For the purpose of division (A)(16) of section 340.03 of 52843  
the Revised Code, rules governing the duties of mental health 52844  
agencies and boards of alcohol, drug addiction, and mental health 52845  
services under section 3722.18 of the Revised Code regarding 52846  
referrals of individuals with mental illness or severe mental 52847  
disability to adult care facilities and effective arrangements for 52848  
ongoing mental health services for the individuals. The rules 52849  
shall do at least the following: 52850

(i) Provide for agencies and boards to participate fully in 52851  
the procedures owners and managers of adult care facilities must 52852  
follow under division (A)(2) of section 3722.18 of the Revised 52853  
Code; 52854

(ii) Specify the manner in which boards are accountable for 52855  
ensuring that ongoing mental health services are effectively 52856  
arranged for individuals with mental illness or severe mental 52857  
disability who are referred by the board or mental health agency 52858

under contract with the board to an adult care facility. 52859

(c) Rules governing a board of alcohol, drug addiction, and 52860  
mental health services when making a report to the director of 52861  
health under section 3722.17 of the Revised Code regarding the 52862  
quality of care and services provided by an adult care facility to 52863  
a person with mental illness or a severe mental disability. 52864

(2) Rules may be adopted to govern the method of paying a 52865  
community mental health facility ~~described~~, as defined in division 52866  
~~(B)~~ of section 5111.022 of the Revised Code, for providing 52867  
services ~~established by~~ listed in division ~~(A)(B)~~ of that section. 52868  
Such rules must be consistent with the contract entered into 52869  
between the departments of job and family services and mental 52870  
health under ~~division (E) of that~~ section 5111.91 of the Revised 52871  
Code and include requirements ensuring appropriate service 52872  
utilization. 52873

(B) Review and evaluate, and, taking into account the 52874  
findings and recommendations of the board of alcohol, drug 52875  
addiction, and mental health services of the district served by 52876  
the program and the requirements and priorities of the state 52877  
mental health plan, including the needs of residents of the 52878  
district now residing in state mental institutions, approve and 52879  
allocate funds to support community programs, and make 52880  
recommendations for needed improvements to boards of alcohol, drug 52881  
addiction, and mental health services; 52882

(C) Withhold state and federal funds for any program, in 52883  
whole or in part, from a board of alcohol, drug addiction, and 52884  
mental health services in the event of failure of that program to 52885  
comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, 52886  
or 5119.62 of the Revised Code or rules of the department of 52887  
mental health. The director shall identify the areas of 52888  
noncompliance and the action necessary to achieve compliance. The 52889  
director shall offer technical assistance to the board to achieve 52890

compliance. The director shall give the board a reasonable time 52891  
within which to comply or to present its position that it is in 52892  
compliance. Before withholding funds, a hearing shall be conducted 52893  
to determine if there are continuing violations and that either 52894  
assistance is rejected or the board is unable to achieve 52895  
compliance. Subsequent to the hearing process, if it is determined 52896  
that compliance has not been achieved, the director may allocate 52897  
all or part of the withheld funds to a public or private agency to 52898  
provide the services not in compliance until the time that there 52899  
is compliance. The director shall establish rules pursuant to 52900  
Chapter 119. of the Revised Code to implement this division. 52901

(D) Withhold state or federal funds from a board of alcohol, 52902  
drug addiction, and mental health services that denies available 52903  
service on the basis of religion, race, color, creed, sex, 52904  
national origin, age, disability as defined in section 4112.01 of 52905  
the Revised Code, developmental disability, or the inability to 52906  
pay; 52907

(E) Provide consultative services to community mental health 52908  
agencies with the knowledge and cooperation of the board of 52909  
alcohol, drug addiction, and mental health services; 52910

(F) Provide to boards of alcohol, drug addiction, and mental 52911  
health services state or federal funds, in addition to those 52912  
allocated under section 5119.62 of the Revised Code, for special 52913  
programs or projects the director considers necessary but for 52914  
which local funds are not available; 52915

(G) Establish criteria by which a board of alcohol, drug 52916  
addiction, and mental health services reviews and evaluates the 52917  
quality, effectiveness, and efficiency of services provided 52918  
through its community mental health plan. The criteria shall 52919  
include requirements ensuring appropriate service utilization. The 52920  
department shall assess a board's evaluation of services and the 52921  
compliance of each board with this section, Chapter 340. or 52922

section 5119.62 of the Revised Code, and other state or federal 52923  
law and regulations. The department, in cooperation with the 52924  
board, periodically shall review and evaluate the quality, 52925  
effectiveness, and efficiency of services provided through each 52926  
board. The department shall collect information that is necessary 52927  
to perform these functions. 52928

(H) Develop and operate a community mental health information 52929  
system. 52930

Boards of alcohol, drug abuse, and mental health services 52931  
shall submit information requested by the department in the form 52932  
and manner prescribed by the department. Information collected by 52933  
the department shall include, but not be limited to, all of the 52934  
following: 52935

(1) Information regarding units of services provided in whole 52936  
or in part under contract with a board, including diagnosis and 52937  
special needs, demographic information, the number of units of 52938  
service provided, past treatment, financial status, and service 52939  
dates in accordance with rules adopted by the department in 52940  
accordance with Chapter 119. of the Revised Code; 52941

(2) Financial information other than price or price-related 52942  
data regarding expenditures of boards and community mental health 52943  
agencies, including units of service provided, budgeted and actual 52944  
expenses by type, and sources of funds. 52945

Boards shall submit the information specified in division 52946  
(H)(1) of this section no less frequently than annually for each 52947  
client, and each time the client's case is opened or closed. The 52948  
department shall not collect any information for the purpose of 52949  
identifying by name any person who receives a service through a 52950  
board of alcohol, drug addiction, and mental health services, 52951  
except as required by state or federal law to validate appropriate 52952  
reimbursement. For the purposes of division (H)(1) of this 52953

section, the department shall use an identification system that is 52954  
consistent with applicable nationally recognized standards. 52955

(I) Review each board's community mental health plan 52956  
submitted pursuant to section 340.03 of the Revised Code and 52957  
approve or disapprove it in whole or in part. Periodically, in 52958  
consultation with representatives of boards and after considering 52959  
the recommendations of the medical director, the director shall 52960  
issue criteria for determining when a plan is complete, criteria 52961  
for plan approval or disapproval, and provisions for conditional 52962  
approval. The factors that the director considers may include, but 52963  
are not limited to, the following: 52964

(1) The mental health needs of all persons residing within 52965  
the board's service district, especially severely mentally 52966  
disabled children, adolescents, and adults; 52967

(2) The demonstrated quality, effectiveness, efficiency, and 52968  
cultural relevance of the services provided in each service 52969  
district, the extent to which any services are duplicative of 52970  
other available services, and whether the services meet the needs 52971  
identified above; 52972

(3) The adequacy of the board's accounting for the 52973  
expenditure of funds. 52974

If the director disapproves all or part of any plan, the 52975  
director shall provide the board an opportunity to present its 52976  
position. The director shall inform the board of the reasons for 52977  
the disapproval and of the criteria that must be met before the 52978  
plan may be approved. The director shall give the board a 52979  
reasonable time within which to meet the criteria, and shall offer 52980  
technical assistance to the board to help it meet the criteria. 52981

If the approval of a plan remains in dispute thirty days 52982  
prior to the conclusion of the fiscal year in which the board's 52983  
current plan is scheduled to expire, the board or the director may 52984

request that the dispute be submitted to a mutually agreed upon 52985  
third-party mediator with the cost to be shared by the board and 52986  
the department. The mediator shall issue to the board and the 52987  
department recommendations for resolution of the dispute. Prior to 52988  
the conclusion of the fiscal year in which the current plan is 52989  
scheduled to expire, the director, taking into consideration the 52990  
recommendations of the mediator, shall make a final determination 52991  
and approve or disapprove the plan, in whole or in part. 52992

**Sec. 5119.611.** (A) A board of alcohol, drug addiction, and 52993  
mental health services may not contract with a community mental 52994  
health agency under division (A)(8)(a) of section 340.03 of the 52995  
Revised Code to provide community mental health services included 52996  
in the board's community mental health plan unless the services 52997  
are certified by the director of mental health under this section. 52998

A community mental health agency that seeks the director's 52999  
certification of its community mental health services shall submit 53000  
an application to the director. On receipt of the application, the 53001  
director may visit and shall evaluate the agency to determine 53002  
whether its services satisfy the standards established by rules 53003  
adopted under division (C) of this section. The director shall 53004  
make the evaluation, and, if the director visits the agency, shall 53005  
make the visit, in cooperation with the board of alcohol, drug 53006  
addiction, and mental health services with which the agency seeks 53007  
to contract. 53008

If the director determines that a community mental health 53009  
agency's services satisfy the standards, the director shall 53010  
certify the services. 53011

If the director determines that a community mental health 53012  
agency's services do not satisfy the standards, the director shall 53013  
identify the areas of noncompliance, specify what action is 53014  
necessary to satisfy the standards, and offer technical assistance 53015

to the board of alcohol, drug addiction, and mental health 53016  
services so that the board may assist the agency in satisfying the 53017  
standards. The director shall give the agency a reasonable time 53018  
within which to demonstrate that its services satisfy the 53019  
standards or to bring the services into compliance with the 53020  
standards. If the director concludes that the services continue to 53021  
fail to satisfy the standards, the director may request that the 53022  
board reallocate the funds for the community mental health 53023  
services the agency was to provide to another community mental 53024  
health agency whose community mental health services satisfy the 53025  
standards. If the board does not reallocate those funds in a 53026  
reasonable period of time, the director may withhold state and 53027  
federal funds for the community mental health services and 53028  
allocate those funds directly to a community mental health agency 53029  
whose community mental health services satisfy the standards. 53030

(B) Each community mental health agency seeking certification 53031  
of its community mental health services under this section shall 53032  
pay a fee for the certification review required by this section. 53033  
Fees shall be paid into the sale of goods and services fund 53034  
created pursuant to section 5119.161 of the Revised Code. 53035

(C) The director shall adopt rules in accordance with Chapter 53036  
119. of the Revised Code to implement this section. The rules 53037  
shall do all of the following: 53038

(1) Establish certification standards for community mental 53039  
health services, including assertive community treatment and 53040  
intensive home-based mental health services, that are consistent 53041  
with nationally recognized applicable standards and facilitate 53042  
participation in federal assistance programs. The rules shall 53043  
include as certification standards only requirements that improve 53044  
the quality of services or the health and safety of clients of 53045  
community mental health services. The standards shall address at a 53046  
minimum all of the following: 53047



(a) Reporting major unusual incidents to the director;	53048
(b) Procedures for applicants for and clients of community mental health services to file grievances and complaints;	53049 53050
(c) Seclusion;	53051
(d) Restraint;	53052
(e) Development of written policies addressing the rights of clients, including all of the following:	53053 53054
(i) The right to a copy of the written policies addressing client rights;	53055 53056
(ii) The right at all times to be treated with consideration and respect for the client's privacy and dignity;	53057 53058
(iii) The right to have access to the client's own psychiatric, medical, or other treatment records unless access is specifically restricted in the client's treatment plan for clear treatment reasons;	53059 53060 53061 53062
(iv) The right to have a client rights officer provided by the agency or board of alcohol, drug addiction, and mental health services advise the client of the client's rights, including the client's rights under Chapter 5122. of the Revised Code if the client is committed to the agency or board.	53063 53064 53065 53066 53067
(2) Establish standards for qualifications of mental health professionals as defined in section 340.02 of the Revised Code and personnel who provide the community mental health services;	53068 53069 53070
(3) Establish the process for certification of community mental health services;	53071 53072
(4) Set the amount of certification review fees based on a portion of the cost of performing the review;	53073 53074
(5) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds.	53075 53076

(D) The rules adopted under division (C)(1) of this section 53077  
to establish certification standards for assertive community 53078  
treatment and intensive home-based mental health services shall be 53079  
adopted not later than July 1, 2004. 53080

**Sec. 5120.52.** The department of rehabilitation and correction 53081  
may enter into a contract ~~with a political subdivision in~~ under 53082  
which a state correctional institution ~~is located under which the~~ 53083  
~~institution will provide sewage treatment services for the~~ 53084  
~~political subdivision if the institution~~ that has a water or 53085  
sewage treatment facility with sufficient excess capacity to 53086  
provide ~~the water or sewage treatment services~~ will provide the 53087  
services for the other contracting party. The 53088

~~Any such~~ contract shall include all of the following that 53089  
apply: 53090

(A) Limitations on the quantity of sewage that the facility 53091  
will accept ~~that~~ which are compatible with the needs of the state 53092  
correctional institution; 53093

(B) Limitations on the quantity of potable water that the 53094  
facility will provide which are compatible with the needs of the 53095  
state correctional institution; 53096

(C) The bases for calculating reasonable rates to be charged 53097  
the ~~political subdivision~~ contracting party for potable water or 53098  
sewage treatment services and for adjusting the rates; 53099

~~(C)~~(D) All other provisions the department considers 53100  
necessary or proper to protect the interests of the state in the 53101  
facility and the purpose for which it was constructed. 53102

All amounts due the department under the contract shall be 53103  
paid to the department by the ~~political subdivision~~ contracting 53104  
party at the times specified in the contract. The department shall 53105  
deposit all ~~such~~ of those amounts in the state treasury to the 53106

credit of the correctional institution water and sewage treatment 53107  
facility services fund, which is hereby created. The fund shall be 53108  
used by the department to pay costs associated with operating and 53109  
maintaining the water and sewage treatment ~~facility~~ facilities. 53110

**Sec. 5123.01.** As used in this chapter: 53111

(A) "Chief medical officer" means the licensed physician 53112  
appointed by the managing officer of an institution for the 53113  
mentally retarded with the approval of the director of mental 53114  
retardation and developmental disabilities to provide medical 53115  
treatment for residents of the institution. 53116

(B) "Chief program director" means a person with special 53117  
training and experience in the diagnosis and management of the 53118  
mentally retarded, certified according to division (C) of this 53119  
section in at least one of the designated fields, and appointed by 53120  
the managing officer of an institution for the mentally retarded 53121  
with the approval of the director to provide habilitation and care 53122  
for residents of the institution. 53123

(C) "Comprehensive evaluation" means a study, including a 53124  
sequence of observations and examinations, of a person leading to 53125  
conclusions and recommendations formulated jointly, with 53126  
dissenting opinions if any, by a group of persons with special 53127  
training and experience in the diagnosis and management of persons 53128  
with mental retardation or a developmental disability, which group 53129  
shall include individuals who are professionally qualified in the 53130  
fields of medicine, psychology, and social work, together with 53131  
such other specialists as the individual case may require. 53132

(D) "Education" means the process of formal training and 53133  
instruction to facilitate the intellectual and emotional 53134  
development of residents. 53135

(E) "Habilitation" means the process by which the staff of 53136

the institution assists the resident in acquiring and maintaining 53137  
those life skills that enable the resident to cope more 53138  
effectively with the demands of the resident's own person and of 53139  
the resident's environment and in raising the level of the 53140  
resident's physical, mental, social, and vocational efficiency. 53141  
Habilitation includes but is not limited to programs of formal, 53142  
structured education and training. 53143

(F) "Habilitation center services" means services provided by 53144  
a habilitation center certified by the department of mental 53145  
retardation and developmental disabilities under section 5123.041 53146  
of the Revised Code and covered by the medicaid program pursuant 53147  
to rules adopted under section 5111.041 of the Revised Code. 53148

(G) "Health officer" means any public health physician, 53149  
public health nurse, or other person authorized or designated by a 53150  
city or general health district. 53151

(H) "Home and community-based services" means medicaid-funded 53152  
home and community-based services provided under ~~a~~ the medicaid 53153  
~~component~~ components the department of mental retardation and 53154  
developmental disabilities administers pursuant to section 53155  
5111.871 of the Revised Code. 53156

(I) "Indigent person" means a person who is unable, without 53157  
substantial financial hardship, to provide for the payment of an 53158  
attorney and for other necessary expenses of legal representation, 53159  
including expert testimony. 53160

(J) "Institution" means a public or private facility, or a 53161  
part of a public or private facility, that is licensed by the 53162  
appropriate state department and is equipped to provide 53163  
residential habilitation, care, and treatment for the mentally 53164  
retarded. 53165

(K) "Licensed physician" means a person who holds a valid 53166  
certificate issued under Chapter 4731. of the Revised Code 53167

authorizing the person to practice medicine and surgery or 53168  
osteopathic medicine and surgery, or a medical officer of the 53169  
government of the United States while in the performance of the 53170  
officer's official duties. 53171

(L) "Managing officer" means a person who is appointed by the 53172  
director of mental retardation and developmental disabilities to 53173  
be in executive control of an institution for the mentally 53174  
retarded under the jurisdiction of the department. 53175

(M) "Medicaid" has the same meaning as in section 5111.01 of 53176  
the Revised Code. 53177

(N) "Medicaid case management services" means case management 53178  
services provided to an individual with mental retardation or 53179  
other developmental disability that the state medicaid plan 53180  
requires. 53181

(O) "Mentally retarded person" means a person having 53182  
significantly subaverage general intellectual functioning existing 53183  
concurrently with deficiencies in adaptive behavior, manifested 53184  
during the developmental period. 53185

(P) "Mentally retarded person subject to institutionalization 53186  
by court order" means a person eighteen years of age or older who 53187  
is at least moderately mentally retarded and in relation to whom, 53188  
because of the person's retardation, either of the following 53189  
conditions exist: 53190

(1) The person represents a very substantial risk of physical 53191  
impairment or injury to self as manifested by evidence that the 53192  
person is unable to provide for and is not providing for the 53193  
person's most basic physical needs and that provision for those 53194  
needs is not available in the community; 53195

(2) The person needs and is susceptible to significant 53196  
habilitation in an institution. 53197

(Q) "A person who is at least moderately mentally retarded" 53198  
means a person who is found, following a comprehensive evaluation, 53199  
to be impaired in adaptive behavior to a moderate degree and to be 53200  
functioning at the moderate level of intellectual functioning in 53201  
accordance with standard measurements as recorded in the most 53202  
current revision of the manual of terminology and classification 53203  
in mental retardation published by the American association on 53204  
mental retardation. 53205

(R) As used in this division, "substantial functional 53206  
limitation," "developmental delay," and "established risk" have 53207  
the meanings established pursuant to section 5123.011 of the 53208  
Revised Code. 53209

"Developmental disability" means a severe, chronic disability 53210  
that is characterized by all of the following: 53211

(1) It is attributable to a mental or physical impairment or 53212  
a combination of mental and physical impairments, other than a 53213  
mental or physical impairment solely caused by mental illness as 53214  
defined in division (A) of section 5122.01 of the Revised Code. 53215

(2) It is manifested before age twenty-two. 53216

(3) It is likely to continue indefinitely. 53217

(4) It results in one of the following: 53218

(a) In the case of a person under three years of age, at 53219  
least one developmental delay or an established risk; 53220

(b) In the case of a person at least three years of age but 53221  
under six years of age, at least two developmental delays or an 53222  
established risk; 53223

(c) In the case of a person six years of age or older, a 53224  
substantial functional limitation in at least three of the 53225  
following areas of major life activity, as appropriate for the 53226  
person's age: self-care, receptive and expressive language, 53227

learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency.

(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.

(S) "Developmentally disabled person" means a person with a developmental disability.

(T) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.

(U) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, disability financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the state shall be considered as having legal settlement in the assistance area in which the person resides. No adult person coming into this state and having a spouse or minor children residing in another state shall obtain a legal settlement in this state as long as the spouse or minor children are receiving public assistance, care, or support at the expense of the other state or its subdivisions. For the purpose of determining the legal settlement of a person who is living in a public or private institution or in a home subject to licensing by the department of job and family services, the department of mental health, or the department of mental retardation and developmental disabilities, the residence of the person shall be considered as though the person were residing in the county in which the person was living prior to the person's entrance into the institution or home.

Settlement once acquired shall continue until a person has been 53260  
continuously absent from Ohio for a period of one year or has 53261  
acquired a legal residence in another state. A woman who marries a 53262  
man with legal settlement in any county immediately acquires the 53263  
settlement of her husband. The legal settlement of a minor is that 53264  
of the parents, surviving parent, sole parent, parent who is 53265  
designated the residential parent and legal custodian by a court, 53266  
other adult having permanent custody awarded by a court, or 53267  
guardian of the person of the minor, provided that: 53268

(1) A minor female who marries shall be considered to have 53269  
the legal settlement of her husband and, in the case of death of 53270  
her husband or divorce, she shall not thereby lose her legal 53271  
settlement obtained by the marriage. 53272

(2) A minor male who marries, establishes a home, and who has 53273  
resided in this state for one year without receiving general 53274  
assistance prior to July 17, 1995, under former Chapter 5113. of 53275  
the Revised Code, ~~disability~~ financial assistance under Chapter 53276  
5115. of the Revised Code, or assistance from a private agency 53277  
that maintains records of assistance given shall be considered to 53278  
have obtained a legal settlement in this state. 53279

(3) The legal settlement of a child under eighteen years of 53280  
age who is in the care or custody of a public or private child 53281  
caring agency shall not change if the legal settlement of the 53282  
parent changes until after the child has been in the home of the 53283  
parent for a period of one year. 53284

No person, adult or minor, may establish a legal settlement 53285  
in this state for the purpose of gaining admission to any state 53286  
institution. 53287

(V)(1) "Resident" means, subject to division (R)(2) of this 53288  
section, a person who is admitted either voluntarily or 53289  
involuntarily to an institution or other facility pursuant to 53290



section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter who is under observation or receiving habilitation and care in an institution.

(2) "Resident" does not include a person admitted to an institution or other facility under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to resident, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(W) "Respondent" means the person whose detention, commitment, or continued commitment is being sought in any proceeding under this chapter.

(X) "Working day" and "court day" mean Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a legal holiday.

(Y) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(Z) "Court" means the probate division of the court of common pleas.

**Sec. 5123.051.** (A) If the department of mental retardation and developmental disabilities determines ~~pursuant to an audit conducted under section 5123.05 of the Revised Code or a reconciliation conducted under section 5123.18 or 5111.252 of the Revised Code~~ that money is owed the state by a ~~provider of a~~

~~service person or program government entity~~, the department may 53321  
enter into a payment agreement with the ~~provider person or~~ 53322  
government entity for collection of the money owed the state. The 53323  
agreement shall include the following: 53324

(1) A schedule of installment payments whereby the money owed 53325  
the state is to be paid in full within a reasonable period ~~not to~~ 53326  
~~exceed one year~~; 53327

(2) A provision that the ~~provider may pay the~~ entire balance 53328  
owed may be paid at any time during the term of the agreement; 53329

(3) A provision that if any installment is not paid in full 53330  
within forty-five days after it is due, the entire balance owed is 53331  
immediately due and payable; 53332

(4) Any other terms and conditions that are agreed to by the 53333  
department and the ~~provider person or~~ government entity. 53334

(B) The department may include a provision in a payment 53335  
agreement that requires the ~~provider to pay~~ payment of interest on 53336  
the money owed the state. The department, in its discretion, shall 53337  
determine whether to require the payment of interest and, if it so 53338  
requires, the rate of interest. Neither the obligation to pay 53339  
interest nor the rate of interest is subject to negotiation 53340  
between the department and the ~~provider person or~~ government 53341  
entity. 53342

(C) If ~~the provider fails to pay~~ any installment is not paid 53343  
in full within forty-five days after its due date, the department 53344  
shall certify the entire balance owed to the attorney general for 53345  
collection under section 131.02 of the Revised Code. ~~The To~~ 53346  
satisfy a judgment secured by the attorney general, the department 53347  
may withhold funds from any payments ~~made it makes~~ to a ~~provider~~ 53348  
~~under section 5123.18 or 5111.252 of the Revised Code to satisfy a~~ 53349  
~~judgment secured by the attorney general~~ person or government 53350  
entity. 53351

(D) The purchase of service fund is hereby created. Money 53352  
credited to the fund shall be used solely for purposes of section 53353  
5123.05 of the Revised Code. 53354

**Sec. 5123.19.** (A) As used in this section and in sections 53355  
5123.191, 5123.194, 5123.196, 5123.197, 5123.198, 5123.1910, and 53356  
5123.20 of the Revised Code: 53357

(1)(a) "Residential facility" means a home or facility in 53358  
which a mentally retarded or developmentally disabled person 53359  
resides, except the home of a relative or legal guardian in which 53360  
a mentally retarded or developmentally disabled person resides, a 53361  
respite care home certified under section 5126.05 of the Revised 53362  
Code, a county home or district home operated pursuant to Chapter 53363  
5155. of the Revised Code, or a dwelling in which the only 53364  
mentally retarded or developmentally disabled residents are in an 53365  
independent living arrangement or are being provided supported 53366  
living. 53367

(b) "Intermediate care facility for the mentally retarded" 53368  
means a residential facility that is considered an intermediate 53369  
care facility for the mentally retarded for the purposes of 53370  
Chapter 5111. of the Revised Code. 53371

(2) "Political subdivision" means a municipal corporation, 53372  
county, or township. 53373

(3) "Independent living arrangement" means an arrangement in 53374  
which a mentally retarded or developmentally disabled person 53375  
resides in an individualized setting chosen by the person or the 53376  
person's guardian, which is not dedicated principally to the 53377  
provision of residential services for mentally retarded or 53378  
developmentally disabled persons, and for which no financial 53379  
support is received for rendering such service from any 53380  
governmental agency by a provider of residential services. 53381

(4) "Supported living" has the same meaning as in section 53382  
5126.01 of the Revised Code. 53383

(5) "Licensee" means the person or government agency that has 53384  
applied for a license to operate a residential facility and to 53385  
which the license was issued under this section. 53386

(B) Every person or government agency desiring to operate a 53387  
residential facility shall apply for licensure of the facility to 53388  
the director of mental retardation and developmental disabilities 53389  
unless the residential facility is subject to section 3721.02, 53390  
3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding 53391  
Chapter 3721. of the Revised Code, a nursing home that is 53392  
certified as an intermediate care facility for the mentally 53393  
retarded under Title XIX of the "Social Security Act," 79 Stat. 53394  
286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for 53395  
licensure of the portion of the home that is certified as an 53396  
intermediate care facility for the mentally retarded. 53397

(C) The Subject to section 5123.196 of the Revised Code, the 53398  
director of mental retardation and developmental disabilities 53399  
shall license the operation of residential facilities. An initial 53400  
license shall be issued for a period that does not exceed one 53401  
year, unless the director denies the license under division (D) of 53402  
this section. A license shall be renewed for a period that does 53403  
not exceed three years, unless the director refuses to renew the 53404  
license under division (D) of this section. The director, when 53405  
issuing or renewing a license, shall specify the period for which 53406  
the license is being issued or renewed. A license remains valid 53407  
for the length of the licensing period specified by the director, 53408  
unless the license is terminated, revoked, or voluntarily 53409  
surrendered. 53410

(D) If it is determined that an applicant or licensee is not 53411  
in compliance with a provision of this chapter that applies to 53412

residential facilities or the rules adopted under such a 53413  
provision, the director may deny issuance of a license, refuse to 53414  
renew a license, terminate a license, revoke a license, issue an 53415  
order for the suspension of admissions to a facility, issue an 53416  
order for the placement of a monitor at a facility, issue an order 53417  
for the immediate removal of residents, or take any other action 53418  
the director considers necessary consistent with the director's 53419  
authority under this chapter regarding residential facilities. In 53420  
the director's selection and administration of the sanction to be 53421  
imposed, all of the following apply: 53422

(1) The director may deny, refuse to renew, or revoke a 53423  
license, if the director determines that the applicant or licensee 53424  
has demonstrated a pattern of serious noncompliance or that a 53425  
violation creates a substantial risk to the health and safety of 53426  
residents of a residential facility. 53427

(2) The director may terminate a license if more than twelve 53428  
consecutive months have elapsed since the residential facility was 53429  
last occupied by a resident or a notice required by division (J) 53430  
of this section is not given. 53431

(3) The director may issue an order for the suspension of 53432  
admissions to a facility for any violation that may result in 53433  
sanctions under division (D)(1) of this section and for any other 53434  
violation specified in rules adopted under division (G)(2) of this 53435  
section. If the suspension of admissions is imposed for a 53436  
violation that may result in sanctions under division (D)(1) of 53437  
this section, the director may impose the suspension before 53438  
providing an opportunity for an adjudication under Chapter 119. of 53439  
the Revised Code. The director shall lift an order for the 53440  
suspension of admissions when the director determines that the 53441  
violation that formed the basis for the order has been corrected. 53442

(4) The director may order the placement of a monitor at a 53443  
residential facility for any violation specified in rules adopted 53444

under division (G)(2) of this section. The director shall lift the 53445  
order when the director determines that the violation that formed 53446  
the basis for the order has been corrected. 53447

(5) If the director determines that two or more residential 53448  
facilities owned or operated by the same person or government 53449  
entity are not being operated in compliance with a provision of 53450  
this chapter that applies to residential facilities or the rules 53451  
adopted under such a provision, and the director's findings are 53452  
based on the same or a substantially similar action, practice, 53453  
circumstance, or incident that creates a substantial risk to the 53454  
health and safety of the residents, the director shall conduct a 53455  
survey as soon as practicable at each residential facility owned 53456  
or operated by that person or government entity. The director may 53457  
take any action authorized by this section with respect to any 53458  
facility found to be operating in violation of a provision of this 53459  
chapter that applies to residential facilities or the rules 53460  
adopted under such a provision. 53461

(6) When the director initiates license revocation 53462  
proceedings, no opportunity for submitting a plan of correction 53463  
shall be given. The director shall notify the licensee by letter 53464  
of the initiation of such proceedings. The letter shall list the 53465  
deficiencies of the residential facility and inform the licensee 53466  
that no plan of correction will be accepted. The director shall 53467  
also notify each affected resident, the resident's guardian if the 53468  
resident is an adult for whom a guardian has been appointed, the 53469  
resident's parent or guardian if the resident is a minor, and the 53470  
county board of mental retardation and developmental disabilities. 53471

(7) Pursuant to rules which shall be adopted in accordance 53472  
with Chapter 119. of the Revised Code, the director may order the 53473  
immediate removal of residents from a residential facility 53474  
whenever conditions at the facility present an immediate danger of 53475  
physical or psychological harm to the residents. 53476

(8) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of mental retardation and developmental disabilities or other governmental agencies.

(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a substantially similar violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section,

appeals from proceedings initiated to impose a sanction under 53509  
division (D) of this section shall be conducted in accordance with 53510  
Chapter 119. of the Revised Code. 53511

(2) Appeals from proceedings initiated to order the 53512  
suspension of admissions to a facility shall be conducted in 53513  
accordance with Chapter 119. of the Revised Code, unless the order 53514  
was issued before providing an opportunity for an adjudication, in 53515  
which case all of the following apply: 53516

(a) The licensee may request a hearing not later than ten 53517  
days after receiving the notice specified in section 119.07 of the 53518  
Revised Code. 53519

(b) If a timely request for a hearing is made, the hearing 53520  
shall commence not later than thirty days after the department 53521  
receives the request. 53522

(c) After commencing, the hearing shall continue 53523  
uninterrupted, except for Saturdays, Sundays, and legal holidays, 53524  
unless other interruptions are agreed to by the licensee and the 53525  
director. 53526

(d) If the hearing is conducted by a hearing examiner, the 53527  
hearing examiner shall file a report and recommendations not later 53528  
than ten days after the close of the hearing. 53529

(e) Not later than five days after the hearing examiner files 53530  
the report and recommendations, the licensee may file objections 53531  
to the report and recommendations. 53532

(f) Not later than fifteen days after the hearing examiner 53533  
files the report and recommendations, the director shall issue an 53534  
order approving, modifying, or disapproving the report and 53535  
recommendations. 53536

(g) Notwithstanding the pendency of the hearing, the director 53537  
shall lift the order for the suspension of admissions when the 53538



director determines that the violation that formed the basis for 53539  
the order has been corrected. 53540

(G) In accordance with Chapter 119. of the Revised Code, the 53541  
director shall adopt and may amend and rescind rules for licensing 53542  
and regulating the operation of residential facilities, including 53543  
intermediate care facilities for the mentally retarded. The rules 53544  
for intermediate care facilities for the mentally retarded may 53545  
differ from those for other residential facilities. The rules 53546  
shall establish and specify the following: 53547

(1) Procedures and criteria for issuing and renewing 53548  
licenses, including procedures and criteria for determining the 53549  
length of the licensing period that the director must specify for 53550  
each license when it is issued or renewed; 53551

(2) Procedures and criteria for denying, refusing to renew, 53552  
terminating, and revoking licenses and for ordering the suspension 53553  
of admissions to a facility, placement of a monitor at a facility, 53554  
and the immediate removal of residents from a facility; 53555

(3) Fees for issuing and renewing licenses; 53556

(4) Procedures for surveying residential facilities; 53557

(5) Requirements for the training of residential facility 53558  
personnel; 53559

(6) Classifications for the various types of residential 53560  
facilities; 53561

(7) Certification procedures for licensees and management 53562  
contractors that the director determines are necessary to ensure 53563  
that they have the skills and qualifications to properly operate 53564  
or manage residential facilities; 53565

(8) The maximum number of persons who may be served in a 53566  
particular type of residential facility; 53567

(9) Uniform procedures for admission of persons to and 53568

transfers and discharges of persons from residential facilities; 53569

(10) Other standards for the operation of residential 53570  
facilities and the services provided at residential facilities; 53571

(11) Procedures for waiving any provision of any rule adopted 53572  
under this section. 53573

(H) Before issuing a license, the director of the department 53574  
or the director's designee shall conduct a survey of the 53575  
residential facility for which application is made. The director 53576  
or the director's designee shall conduct a survey of each licensed 53577  
residential facility at least once during the period the license 53578  
is valid and may conduct additional inspections as needed. A 53579  
survey includes but is not limited to an on-site examination and 53580  
evaluation of the residential facility, its personnel, and the 53581  
services provided there. 53582

In conducting surveys, the director or the director's 53583  
designee shall be given access to the residential facility; all 53584  
records, accounts, and any other documents related to the 53585  
operation of the facility; the licensee; the residents of the 53586  
facility; and all persons acting on behalf of, under the control 53587  
of, or in connection with the licensee. The licensee and all 53588  
persons on behalf of, under the control of, or in connection with 53589  
the licensee shall cooperate with the director or the director's 53590  
designee in conducting the survey. 53591

Following each survey, unless the director initiates a 53592  
license revocation proceeding, the director or the director's 53593  
designee shall provide the licensee with a report listing any 53594  
deficiencies, specifying a timetable within which the licensee 53595  
shall submit a plan of correction describing how the deficiencies 53596  
will be corrected, and, when appropriate, specifying a timetable 53597  
within which the licensee must correct the deficiencies. After a 53598  
plan of correction is submitted, the director or the director's 53599

designee shall approve or disapprove the plan. A copy of the 53600  
report and any approved plan of correction shall be provided to 53601  
any person who requests it. 53602

The director shall initiate disciplinary action against any 53603  
department employee who notifies or causes the notification to any 53604  
unauthorized person of an unannounced survey of a residential 53605  
facility by an authorized representative of the department. 53606

(I) In addition to any other information which may be 53607  
required of applicants for a license pursuant to this section and 53608  
except as provided in section 5123.1910 of the Revised Code, the 53609  
director shall require each applicant to provide a copy of an 53610  
approved plan for a proposed residential facility pursuant to 53611  
section 5123.042 of the Revised Code. This division does not apply 53612  
to renewal of a license. 53613

(J) A licensee shall notify the owner of the building in 53614  
which the licensee's residential facility is located of any 53615  
significant change in the identity of the licensee or management 53616  
contractor before the effective date of the change if the licensee 53617  
is not the owner of the building. 53618

Pursuant to rules which shall be adopted in accordance with 53619  
Chapter 119. of the Revised Code, the director may require 53620  
notification to the department of any significant change in the 53621  
ownership of a residential facility or in the identity of the 53622  
licensee or management contractor. If the director determines that 53623  
a significant change of ownership is proposed, the director shall 53624  
consider the proposed change to be an application for development 53625  
by a new operator pursuant to section 5123.042 of the Revised Code 53626  
and shall advise the applicant within sixty days of such 53627  
notification that the current license shall continue in effect or 53628  
a new license will be required pursuant to this section. If the 53629  
director requires a new license, the director shall permit the 53630  
facility to continue to operate under the current license until 53631

the new license is issued, unless the current license is revoked, 53632  
refused to be renewed, or terminated in accordance with Chapter 53633  
119. of the Revised Code. 53634

(K) A county board of mental retardation and developmental 53635  
disabilities, the legal rights service, and any interested person 53636  
may file complaints alleging violations of statute or department 53637  
rule relating to residential facilities with the department. All 53638  
complaints shall be in writing and shall state the facts 53639  
constituting the basis of the allegation. The department shall not 53640  
reveal the source of any complaint unless the complainant agrees 53641  
in writing to waive the right to confidentiality or until so 53642  
ordered by a court of competent jurisdiction. 53643

The department shall adopt rules in accordance with Chapter 53644  
119. of the Revised Code establishing procedures for the receipt, 53645  
referral, investigation, and disposition of complaints filed with 53646  
the department under this division. 53647

(L) The department shall establish procedures for the 53648  
notification of interested parties of the transfer or interim care 53649  
of residents from residential facilities that are closing or are 53650  
losing their license. 53651

(M) Before issuing a license under this section to a 53652  
residential facility that will accommodate at any time more than 53653  
one mentally retarded or developmentally disabled individual, the 53654  
director shall, by first class mail, notify the following: 53655

(1) If the facility will be located in a municipal 53656  
corporation, the clerk of the legislative authority of the 53657  
municipal corporation; 53658

(2) If the facility will be located in unincorporated 53659  
territory, the clerk of the appropriate board of county 53660  
commissioners and the clerk of the appropriate board of township 53661  
trustees. 53662

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(N) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(O) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen persons with mental retardation or a

developmental disability as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude these residential facilities from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate these residential facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of these residential facilities.

(P) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(Q) Divisions (N) and (O) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(R)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this

section if either of the following is the case: 53726

(a) The director determines that an emergency exists 53727  
requiring immediate placement of persons in a residential 53728  
facility, that insufficient licensed beds are available, and that 53729  
the residential facility is likely to receive a permanent license 53730  
under this section within thirty days after issuance of the 53731  
interim license. 53732

(b) The director determines that the issuance of an interim 53733  
license is necessary to meet a temporary need for a residential 53734  
facility. 53735

(2) To be eligible to receive an interim license, an 53736  
applicant must meet the same criteria that must be met to receive 53737  
a permanent license under this section, except for any differing 53738  
procedures and time frames that may apply to issuance of a 53739  
permanent license. 53740

(3) An interim license shall be valid for thirty days and may 53741  
be renewed by the director for a period not to exceed one hundred 53742  
fifty days. 53743

(4) The director shall adopt rules in accordance with Chapter 53744  
119. of the Revised Code as the director considers necessary to 53745  
administer the issuance of interim licenses. 53746

(S) Notwithstanding rules adopted pursuant to this section 53747  
establishing the maximum number of persons who may be served in a 53748  
particular type of residential facility, a residential facility 53749  
shall be permitted to serve the same number of persons being 53750  
served by the facility on the effective date of such rules or the 53751  
number of persons for which the facility is authorized pursuant to 53752  
a current application for a certificate of need with a letter of 53753  
support from the department of mental retardation and 53754  
developmental disabilities and which is in the review process 53755  
prior to April 4, 1986. 53756

(T) The director or the director's designee may enter at any 53757  
time, for purposes of investigation, any home, facility, or other 53758  
structure that has been reported to the director or that the 53759  
director has reasonable cause to believe is being operated as a 53760  
residential facility without a license issued under this section. 53761

The director may petition the court of common pleas of the 53762  
county in which an unlicensed residential facility is located for 53763  
an order enjoining the person or governmental agency operating the 53764  
facility from continuing to operate without a license. The court 53765  
may grant the injunction on a showing that the person or 53766  
governmental agency named in the petition is operating a 53767  
residential facility without a license. The court may grant the 53768  
injunction, regardless of whether the residential facility meets 53769  
the requirements for receiving a license under this section. 53770

(U) Except as provided in section 5123.198 of the Revised 53771  
Code, whenever a resident of a residential facility is committed 53772  
to a state-operated intermediate care facility for the mentally 53773  
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 53774  
Code, the department shall reduce by one the maximum number of 53775  
residents for which the facility is licensed. 53776

**Sec. 5123.196.** (A) Except as provided in division (E) of this 53777  
section, the director of mental retardation and developmental 53778  
disabilities shall not issue a license under section 5123.19 of 53779  
the Revised Code on or after July 1, 2003, if issuance will result 53780  
in there being more beds in all residential facilities licensed 53781  
under that section than is permitted under division (B) of this 53782  
section. 53783

(B) The maximum number of beds for the purpose of division 53784  
(A) of this section shall not exceed ten thousand eight hundred 53785  
thirty-eight minus, except as provided in division (C) of this 53786  
section, the number of such beds taken out of service on or after 53787



July 1, 2003, pursuant to section 5123.197 of the Revised Code or 53788  
because a residential facility license is revoked, terminated, or 53789  
not renewed for any reason or is surrendered. 53790

(C) The director is not required to reduce the maximum number 53791  
of beds pursuant to division (B) of this section by a bed taken 53792  
out of service if the director determines that the bed is needed 53793  
to provide services to an individual with mental retardation or a 53794  
developmental disability who resided in the residential facility 53795  
in which the bed was located. 53796

(D) The director shall maintain an up-to-date written record 53797  
of the maximum number of residential facility beds provided for by 53798  
division (B) of this section. 53799

(E) If required by section 5123.1910 of the Revised Code to 53800  
issue a license under section 5123.19 of the Revised Code, the 53801  
director shall issue the license regardless of whether issuance 53802  
will result in there being more beds in all residential facilities 53803  
licensed under that section than is permitted under division (B) 53804  
of this section. 53805

**Sec. 5123.197.** A licensee shall take out of service as a 53806  
residential facility bed any bed located in the facility that is 53807  
converted to use for supported living. The number of residential 53808  
facility beds a residential facility is licensed to have shall be 53809  
reduced by each bed taken out of service under this section. 53810

**Sec. 5123.198.** (A) Whenever a resident of an intermediate 53811  
care facility for the mentally retarded is committed to a 53812  
state-operated intermediate care facility for the mentally 53813  
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 53814  
Code, the department of mental retardation and developmental 53815  
disabilities shall reduce by one the number of residents for which 53816  
the facility in which the resident resided is licensed, unless the 53817

facility admits an individual who resides in a state-operated 53818  
intermediate care facility for the mentally retarded on the date 53819  
of the commitment or another individual determined to need the 53820  
level of care provided by such a facility and designated by the 53821  
department not later than ninety days after the date of the 53822  
commitment. 53823

(B) The department of mental retardation and developmental 53824  
disabilities may notify the department of job and family services 53825  
of any reduction under this section in the number of residents for 53826  
which a facility is licensed. On receiving the notice, the 53827  
department of job and family services may transfer to the 53828  
department of mental retardation and developmental disabilities 53829  
the savings in the nonfederal share of medicaid expenditures for 53830  
each fiscal year after the year of the commitment to be used for 53831  
costs of the resident's care in the state-operated intermediate 53832  
care facility for the mentally retarded. In determining the amount 53833  
saved, the department of job and family services shall consider 53834  
medicaid payments for the remaining residents of the facility in 53835  
which the resident resided. 53836

**Sec. ~~5111.252~~ 5123.199.** (A) As used in this section: 53837

(1) "Contractor" means a person or government agency that has 53838  
entered into a contract with the department of mental retardation 53839  
and developmental disabilities under this section. 53840

(2) "Government agency" and "residential services" have the 53841  
same meanings as in section 5123.18 of the Revised Code. 53842

(3) "Intermediate care facility for the mentally retarded" 53843  
has the same meaning as in section 5111.20 of the Revised Code. 53844

(4) "Respite care services" has the same meaning as in 53845  
section 5123.171 of the Revised Code. 53846

(B) The department of mental retardation and developmental 53847

disabilities may enter into a contract with a person or government agency to do any of the following:

(1) Provide residential services in an intermediate care facility for the mentally retarded to an individual who meets the criteria for admission to such a facility but is not eligible for assistance under ~~this chapter~~ Chapter 5111. of the Revised Code due to unliquidated assets subject to final probate action;

(2) Provide respite care services in an intermediate care facility for the mentally retarded;

(3) Provide residential services in a facility for which the person or government agency has applied for, but has not received, certification and payment as an intermediate care facility for the mentally retarded if the person or government agency is making a good faith effort to bring the facility into compliance with requirements for certification and payment as an intermediate care facility for the mentally retarded. In assigning payment amounts to such contracts, the department shall take into account costs incurred in attempting to meet certification requirements.

(4) Reimburse an intermediate care facility for the mentally retarded for costs not otherwise reimbursed under ~~this chapter~~ Chapter 5111. of the Revised Code for clothing for individuals who are mentally retarded or developmentally disabled. Reimbursement under such contracts shall not exceed a maximum amount per individual per year specified in rules that the department shall adopt in accordance with Chapter 119. of the Revised Code.

(C) The amount paid to a contractor under divisions (B)(1) to (3) of this section shall not exceed the reimbursement that would be made under ~~this chapter~~ Chapter 5111. of the Revised Code by the department of job and family services for the same goods and services.

(D) The department of mental retardation and developmental

disabilities shall adopt rules as necessary to implement this 53879  
section, including rules establishing standards and procedures for 53880  
the submission of cost reports by contractors and the department's 53881  
conduct of audits and reconciliations regarding the contracts. The 53882  
rules shall be adopted in accordance with Chapter 119. of the 53883  
Revised Code. 53884

Sec. 5123.1910. (A) The director of mental retardation and 53885  
developmental disabilities shall issue one or more residential 53886  
facility licenses under section 5123.19 of the Revised Code to an 53887  
applicant without requiring the applicant to have plans submitted, 53888  
reviewed, or approved under section 5123.042 of the Revised Code 53889  
for the residential facility if all of the following requirements 53890  
are met: 53891

(1) The applicant satisfies the requirements for the license 53892  
established by section 5123.19 of the Revised Code and rules 53893  
adopted under that section, other than any rule that requires an 53894  
applicant for a residential facility license to have plans 53895  
submitted, reviewed, or approved under section 5123.042 of the 53896  
Revised Code for the residential facility. 53897

(2) The applicant operates at least one residential facility 53898  
licensed under section 5123.19 of the Revised Code on the 53899  
effective date of this section. 53900

(3) The applicant provides services to individuals with 53901  
mental retardation or a developmental disability who have a 53902  
chronic, medically complex, or technology-dependent condition that 53903  
requires special supervision or care, the majority of whom 53904  
received habilitation services from the applicant before attaining 53905  
eighteen years of age. 53906

(4) The applicant has created directly or through a corporate 53907  
affiliate a research center that has the mission of funding, 53908  
promoting, and carrying on scientific research in the public 53909

interest related to individuals with mental retardation or a 53910  
developmental disability for the purpose of improving the lives of 53911  
such individuals. 53912

(5) If the applicant seeks two or more residential facility 53913  
licenses, the residential facilities for which a license is sought 53914  
after the effective date of this section are located on the same 53915  
or adjoining property sites. 53916

(6) The residential facilities for which the applicant seeks 53917  
licensure have not more than eight beds each and forty-eight beds 53918  
total. 53919

(7) The applicant, one or more of the applicant's corporate 53920  
affiliates, or both employ or contract for, on a full-time basis, 53921  
at least one licensed physician who is certified by the American 53922  
board of pediatrics or would be eligible for certification from 53923  
that board if the physician passed an examination necessary to 53924  
obtain certification from that board. 53925

(8) The applicant, one or more of the applicant's corporate 53926  
affiliates, or both have educational facilities suitable for the 53927  
instruction of individuals under eighteen years of age with mental 53928  
retardation or a developmental disability who have a medically 53929  
complex or technology-dependent condition. 53930

(9) The applicant has a policy for giving individuals with 53931  
mental retardation or a developmental disability who meet all of 53932  
the following conditions priority over all others in admissions to 53933  
one of the residential facilities licensed under section 5123.19 53934  
of the Revised Code that the applicant operates on the effective 53935  
date of this section: 53936

(a) Are under eighteen years of age; 53937

(b) Have a chronic, medically complex, or 53938  
technology-dependent condition that requires special supervision 53939  
or care; 53940

(c) Are eligible for medicaid; 53941

(d) Reside in a nursing home, as defined in section 3721.01 53942  
of the Revised Code, or a hospital, as defined in section 3727.01, 53943  
prior to being admitted to the residential facility. 53944

(B) The director shall issue one or more residential facility 53945  
licenses under section 5123.19 of the Revised Code to an applicant 53946  
who meets all of the requirements of this section regardless of 53947  
whether the requirements for approval of a plan for a proposed 53948  
residential facility established by rules adopted under section 53949  
5123.042 of the Revised Code are met. 53950

**Sec. 5123.38.** (A) Except as provided in division (B) and (C) 53951  
of this section, if an individual receiving supported living or 53952  
home and community-based services, as defined in section 5126.01 53953  
of the Revised Code, funded by a county board of mental 53954  
retardation and developmental disabilities is committed to a 53955  
state-operated intermediate care facility for the mentally 53956  
retarded pursuant to sections 5123.71 to 5123.76 of the Revised 53957  
Code, the department of mental retardation and developmental 53958  
disabilities shall use the funds otherwise allocated to the county 53959  
board as the nonfederal share of medicaid expenditures for the 53960  
individual's care in the state-operated facility. 53961

(B) Division (A) of this section does not apply if the county 53962  
board, not later than ninety days after the date of the commitment 53963  
of a person receiving supported services, commences funding of 53964  
supported living for an individual who resides in a state-operated 53965  
intermediate care facility for the mentally retarded on the date 53966  
of the commitment or another eligible individual designated by the 53967  
department. 53968

(C) Division (A) of this section does not apply if the county 53969  
board, not later than ninety days after the date of the commitment 53970

of a person receiving home and community-based services, commences 53971  
funding of home and community-based services for an individual who 53972  
resides in a state-operated intermediate care facility for the 53973  
mentally retarded on the date of the commitment or another 53974  
eligible individual designated by the department. 53975

**Sec. 5123.60.** (A) A legal rights service is hereby created 53976  
and established to protect and advocate the rights of mentally ill 53977  
persons, mentally retarded persons, developmentally disabled 53978  
persons, and other disabled persons who may be represented by the 53979  
service pursuant to division (L) of this section; to receive and 53980  
act upon complaints concerning institutional and hospital 53981  
practices and conditions of institutions for mentally retarded or 53982  
developmentally disabled persons and hospitals for the mentally 53983  
ill; and to assure that all persons detained, hospitalized, 53984  
discharged, or institutionalized, and all persons whose detention, 53985  
hospitalization, discharge, or institutionalization is sought or 53986  
has been sought under this chapter or Chapter 5122. of the Revised 53987  
Code are fully informed of their rights and adequately represented 53988  
by counsel in proceedings under this chapter or Chapter 5122. of 53989  
the Revised Code and in any proceedings to secure the rights of 53990  
those persons. Notwithstanding the definitions of "mentally 53991  
retarded person" and "developmentally disabled person" in section 53992  
5123.01 of the Revised Code, the legal rights service shall 53993  
determine who is a mentally retarded or developmentally disabled 53994  
person for purposes of this section and sections 5123.601 to 53995  
5123.604 of the Revised Code. 53996

(B) In regard to those persons detained, hospitalized, or 53997  
institutionalized under Chapter 5122. of the Revised Code, the 53998  
legal rights service shall undertake formal representation only of 53999  
those persons who are involuntarily detained, hospitalized, or 54000  
institutionalized pursuant to sections 5122.10 to 5122.15 of the 54001  
Revised Code, and those voluntarily detained, hospitalized, or 54002

institutionalized who are minors, who have been adjudicated 54003  
incompetent, who have been detained, hospitalized, or 54004  
institutionalized in a public hospital, or who have requested 54005  
representation by the legal rights service. If a person referred 54006  
to in division (A) of this section voluntarily requests in writing 54007  
that the legal rights service terminate participation in the 54008  
person's case, such involvement shall cease. 54009

(C) Any person voluntarily hospitalized or institutionalized 54010  
in a public hospital under division (A) of section 5122.02 of the 54011  
Revised Code, after being fully informed of the person's rights 54012  
under division (A) of this section, may, by written request, waive 54013  
assistance by the legal rights service if the waiver is knowingly 54014  
and intelligently made, without duress or coercion. 54015

The waiver may be rescinded at any time by the voluntary 54016  
patient or resident, or by the voluntary patient's or resident's 54017  
legal guardian. 54018

(D)(1) The legal rights service commission is hereby created 54019  
for the purposes of appointing an administrator of the legal 54020  
rights service, advising the administrator, assisting the 54021  
administrator in developing a budget, advising the administrator 54022  
in establishing and annually reviewing a strategic plan, creating 54023  
a procedure for filing and determination of grievances against the 54024  
legal rights service, and establishing general policy guidelines, 54025  
including guidelines for the commencement of litigation, for the 54026  
legal rights service. The commission may adopt rules to carry 54027  
these purposes into effect and may receive and act upon appeals of 54028  
personnel decisions by the administrator. 54029

(2) The commission shall consist of seven members. One 54030  
member, who shall serve as chairperson, shall be appointed by the 54031  
chief justice of the supreme court, three members shall be 54032  
appointed by the speaker of the house of representatives, and 54033  
three members shall be appointed by the president of the senate. 54034



At least two members shall have experience in the field of 54035  
developmental disabilities, and at least two members shall have 54036  
experience in the field of mental health. No member shall be a 54037  
provider or related to a provider of services to mentally 54038  
retarded, developmentally disabled, or mentally ill persons. 54039

(3) Terms of office of the members of the commission shall be 54040  
for three years, each term ending on the same day of the month of 54041  
the year as did the term which it succeeds. Each member shall 54042  
serve subsequent to the expiration of the member's term until a 54043  
successor is appointed and qualifies, or until sixty days has 54044  
elapsed, whichever occurs first. No member shall serve more than 54045  
two consecutive terms. 54046

All vacancies in the membership of the commission shall be 54047  
filled in the manner prescribed for regular appointments to the 54048  
commission and shall be limited to the unexpired terms. 54049

(4) The commission shall meet at least four times each year. 54050  
Members shall be reimbursed for their necessary and actual 54051  
expenses incurred in the performance of their official duties. 54052

(5) The administrator of the legal rights service shall be 54053  
~~appointed for a five year term, subject to removal for mental or~~ 54054  
~~physical incapacity to perform the duties of the office,~~ 54055  
~~conviction of violation of any law relating to the administrator's~~ 54056  
~~powers and duties, or other good cause shown~~ serve at the pleasure 54057  
of the commission. 54058

The administrator shall be a person who has had special 54059  
training and experience in the type of work with which the legal 54060  
rights service is charged. If the administrator is not an 54061  
attorney, the administrator shall seek legal counsel when 54062  
appropriate. The salary of the administrator shall be established 54063  
in accordance with section 124.14 of the Revised Code. 54064

(E) The legal rights service shall be completely independent 54065

of the department of mental health and the department of mental 54066  
retardation and developmental disabilities and, notwithstanding 54067  
section 109.02 of the Revised Code, shall also be independent of 54068  
the office of the attorney general. The administrator of the legal 54069  
rights service, staff, and attorneys designated by the 54070  
administrator to represent persons detained, hospitalized, or 54071  
institutionalized under this chapter or Chapter 5122. of the 54072  
Revised Code shall have ready access to the following: 54073

(1) During normal business hours and at other reasonable 54074  
times, all records relating to expenditures of state and federal 54075  
funds or to the commitment, care, treatment, and habilitation of 54076  
all persons represented by the legal rights service, including 54077  
those who may be represented pursuant to division (L) of this 54078  
section, or persons detained, hospitalized, institutionalized, or 54079  
receiving services under this chapter or Chapter 340., 5119., 54080  
5122., or 5126. of the Revised Code that are records maintained by 54081  
the following entities providing services for those persons: 54082  
departments; institutions; hospitals; community residential 54083  
facilities; boards of alcohol, drug addiction, and mental health 54084  
services; county boards of mental retardation and developmental 54085  
disabilities; contract agencies of those boards; and any other 54086  
entity providing services to persons who may be represented by the 54087  
service pursuant to division (L) of this section; 54088

(2) Any records maintained in computerized data banks of the 54089  
departments or boards or, in the case of persons who may be 54090  
represented by the service pursuant to division (L) of this 54091  
section, any other entity that provides services to those persons; 54092

(3) During their normal working hours, personnel of the 54093  
departments, facilities, boards, agencies, institutions, 54094  
hospitals, and other service-providing entities; 54095

(4) At any time, all persons detained, hospitalized, or 54096  
institutionalized; persons receiving services under this chapter 54097

or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and 54098  
persons who may be represented by the service pursuant to division 54099  
(L) of this section. 54100

(F) The administrator of the legal rights service shall do 54101  
the following: 54102

(1) Administer and organize the work of the legal rights 54103  
service and establish administrative or geographic divisions as 54104  
the administrator considers necessary, proper, and expedient; 54105

(2) Adopt and promulgate rules that are not in conflict with 54106  
rules adopted by the commission and prescribe duties for the 54107  
efficient conduct of the business and general administration of 54108  
the legal rights service; 54109

(3) Appoint and discharge employees, and hire experts, 54110  
consultants, advisors, or other professionally qualified persons 54111  
as the administrator considers necessary to carry out the duties 54112  
of the legal rights service; 54113

(4) Apply for and accept grants of funds, and accept 54114  
charitable gifts and bequests; 54115

(5) Prepare and submit a budget to the general assembly for 54116  
the operation of the legal rights service. At least thirty days 54117  
prior to submitting the budget to the general assembly, the 54118  
administrator shall provide a copy of the budget to the commission 54119  
for review and comment. When submitting the budget to the general 54120  
assembly, the administrator shall include a copy of any written 54121  
comments returned by the commission to the administrator. 54122

(6) Enter into contracts and make expenditures necessary for 54123  
the efficient operation of the legal rights service; 54124

(7) Annually prepare a report of activities and submit copies 54125  
of the report to the governor, the chief justice of the supreme 54126  
court, the president of the senate, the speaker of the house of 54127

representatives, the director of mental health, and the director 54128  
of mental retardation and developmental disabilities, and make the 54129  
report available to the public; 54130

(8) Upon request of the commission or of the chairperson of 54131  
the commission, report to the commission on specific litigation 54132  
issues or activities. 54133

(G)(1) The legal rights service may act directly or contract 54134  
with other organizations or individuals for the provision of the 54135  
services envisioned under this section. 54136

(2) Whenever possible, the administrator shall attempt to 54137  
facilitate the resolution of complaints through administrative 54138  
channels. Subject to division (G)(3) of this section, if attempts 54139  
at administrative resolution prove unsatisfactory, the 54140  
administrator may pursue any legal, administrative, and other 54141  
appropriate remedies or approaches that may be necessary to 54142  
accomplish the purposes of this section. 54143

(3) The administrator may not pursue a class action lawsuit 54144  
under division (G)(2) of this section when attempts at 54145  
administrative resolution of a complaint prove unsatisfactory 54146  
under that division unless both of the following have first 54147  
occurred: 54148

(a) At least four members of the commission, by their 54149  
affirmative vote, have consented to the pursuit of the class 54150  
action lawsuit; 54151

(b) At least five members of the commission are present at 54152  
the meeting of the commission at which that consent is obtained. 54153

(4) ~~Relationships~~ Subject to division (G)(5) of this section, 54154  
relationships between personnel and the agents of the legal rights 54155  
service and its clients shall be fiduciary relationships, and all 54156  
communications shall be confidential, as if between attorney and 54157  
client. 54158

(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.

(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.

(I) The legal rights service may conduct public hearings.

(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.

(K) In any malpractice action filed against the administrator of the legal rights service, a member of the staff of the legal rights service, or an attorney designated by the administrator to perform legal services under division (E) of this section, the state shall, when the administrator, member, or attorney has acted in good faith and in the scope of employment, indemnify the administrator, member, or attorney for any judgment awarded or amount negotiated in settlement, and for any court costs or legal fees incurred in defense of the claim.

This division does not limit or waive, and shall not be construed to limit or waive, any defense that is available to the

legal rights service, its administrator or employees, persons 54190  
under a personal services contract with it, or persons designated 54191  
under division (E) of this section, including, but not limited to, 54192  
any defense available under section 9.86 of the Revised Code. 54193

(L) In addition to providing services to mentally ill, 54194  
mentally retarded, or developmentally disabled persons, when a 54195  
grant authorizing the provision of services to other individuals 54196  
is accepted pursuant to division (F)(4) of this section, the legal 54197  
rights service and its ombudsperson section may provide advocacy 54198  
or ombudsperson services to those other individuals and exercise 54199  
any other authority granted by this section or sections 5123.601 54200  
to 5123.604 of the Revised Code on behalf of those individuals. 54201  
Determinations of whether an individual is eligible for services 54202  
under this division shall be made by the legal rights service. 54203

**Sec. 5123.801.** If neither a discharged resident, nor a 54204  
resident granted trial visit, nor the persons requesting the 54205  
resident's trial visit or discharge are financially able to bear 54206  
the expense of the resident's trial visit or discharge, the 54207  
managing officer of an institution under the control of the 54208  
department of mental retardation and developmental disabilities 54209  
may then provide actual traveling and escort expenses to the 54210  
township of which the resident resided at the time of 54211  
institutionalization. The amount payable shall be charged to the 54212  
current expense fund of the institution. 54213

The expense of the return of a resident on trial visit from 54214  
an institution, if it cannot be paid by the responsible relatives, 54215  
shall be borne by the county of institutionalization. 54216

~~The managing officer of the institution shall take all proper 54217  
measures for the apprehension of an escaped resident. The expense 54218  
of the return of an escaped resident shall be borne by the 54219  
institution where the resident is institutionalized. 54220~~

The managing officer of the institution shall provide 54221  
sufficient and proper clothing for traveling if neither the 54222  
resident nor the persons requesting the resident's trial visit or 54223  
discharge are financially able to provide that clothing. 54224

Sec. 5123.851. When a resident institutionalized pursuant to 54225  
this chapter is discharged from the institution, the managing 54226  
officer of the institution may provide the resident with all 54227  
personal items that were purchased in implementing the resident's 54228  
habilitation plan established pursuant to section 5123.85 of the 54229  
Revised Code. The personal items may be provided to the resident, 54230  
regardless of the source of the funds that were used to purchase 54231  
the items. 54232

**Sec. 5126.01.** As used in this chapter: 54233

(A) As used in this division, "adult" means an individual who 54234  
is eighteen years of age or over and not enrolled in a program or 54235  
service under Chapter 3323. of the Revised Code and an individual 54236  
sixteen or seventeen years of age who is eligible for adult 54237  
services under rules adopted by the director of mental retardation 54238  
and developmental disabilities pursuant to Chapter 119. of the 54239  
Revised Code. 54240

(1) "Adult services" means services provided to an adult 54241  
outside the home, except when they are provided within the home 54242  
according to an individual's assessed needs and identified in an 54243  
individual service plan, that support learning and assistance in 54244  
the area of self-care, sensory and motor development, 54245  
socialization, daily living skills, communication, community 54246  
living, social skills, or vocational skills. 54247

(2) "Adult services" includes all of the following: 54248

(a) Adult day habilitation services; 54249

(b) Adult day care;	54250
(c) Prevocational services;	54251
(d) Sheltered employment;	54252
(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;	54253 54254 54255 54256 54257 54258 54259
(f) Community employment services and supported employment services.	54260 54261
(B)(1) "Adult day habilitation services" means adult services that do the following:	54262 54263
(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 events, and activities where individuals without disabilities are involved;	54264 54265 54266 54267 54268 54269 54270 54271
(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.	54272 54273 54274 54275
(2) "Adult day habilitation services" includes all of the following:	54276 54277
(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services,	54278 54279



educational services, community activities, and any other adult	54280
day habilitation services;	54281
(b) Skilled services provided while receiving adult day	54282
habilitation services, including such skilled services as behavior	54283
management intervention, occupational therapy, speech and language	54284
therapy, physical therapy, and nursing services;	54285
(c) Training and education in self-determination designed to	54286
help the individual do one or more of the following: develop	54287
self-advocacy skills, exercise the individual's civil rights,	54288
acquire skills that enable the individual to exercise control and	54289
responsibility over the services received, and acquire skills that	54290
enable the individual to become more independent, integrated, or	54291
productive in the community;	54292
(d) Recreational and leisure activities identified in the	54293
individual's service plan as therapeutic in nature or assistive in	54294
developing or maintaining social supports;	54295
(e) Counseling and assistance provided to obtain housing,	54296
including such counseling as identifying options for either rental	54297
or purchase, identifying financial resources, assessing needs for	54298
environmental modifications, locating housing, and planning for	54299
ongoing management and maintenance of the housing selected;	54300
(f) Transportation necessary to access adult day habilitation	54301
services;	54302
(g) Habilitation management, as described in section 5126.14	54303
of the Revised Code.	54304
(3) "Adult day habilitation services" does not include	54305
activities that are components of the provision of residential	54306
services, family support services, or supported living services.	54307
(C) "Community employment services" or "supported employment	54308
services" means job training and other services related to	54309

employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the following:

(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment;

(2) Supervised work experience through an employer paid to provide the supervised work experience;

(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities;

(4) Ongoing supervision by an employer paid to provide the supervision.

(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.

"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;

(3) It is likely to continue indefinitely;

(4) It results in one of the following:

(a) In the case of a person under age three, at least one developmental delay or an established risk;

(b) In the case of a person at least age three but under age six, at least two developmental delays or an established risk;

(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.

(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.

(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.

(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.

(2) "Environmental modifications" includes such adaptations as installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, and installation of specialized electric and plumbing systems necessary to accommodate the individual's medical equipment and supplies.

(3) "Environmental modifications" does not include physical adaptations or improvements to the home that are of general utility or not of direct medical or remedial benefit to the individual, including such adaptations or improvements as carpeting, roof repair, and central air conditioning.

(G) "Family support services" means the services provided 54370  
under a family support services program operated under section 54371  
5126.11 of the Revised Code. 54372

(H) "Habilitation" means the process by which the staff of 54373  
the facility or agency assists an individual with mental 54374  
retardation or other developmental disability in acquiring and 54375  
maintaining those life skills that enable the individual to cope 54376  
more effectively with the demands of the individual's own person 54377  
and environment, and in raising the level of the individual's 54378  
personal, physical, mental, social, and vocational efficiency. 54379  
Habilitation includes, but is not limited to, programs of formal, 54380  
structured education and training. 54381

(I) "Habilitation center services" means services provided by 54382  
a habilitation center certified by the department of mental 54383  
retardation and developmental disabilities under section 5123.041 54384  
of the Revised Code and covered by the medicaid program pursuant 54385  
to rules adopted under section 5111.041 of the Revised Code. 54386

(J) "Home and community-based services" means medicaid-funded 54387  
home and community-based services provided under a the medicaid 54388  
~~component~~ components the department of mental retardation and 54389  
developmental disabilities administers pursuant to section 54390  
5111.871 of the Revised Code. 54391

(K) "Medicaid" has the same meaning as in section 5111.01 of 54392  
the Revised Code. 54393

(L) "Medicaid case management services" means case management 54394  
services provided to an individual with mental retardation or 54395  
other developmental disability that the state medicaid plan 54396  
requires. 54397

(M) "Mental retardation" means a mental impairment manifested 54398  
during the developmental period characterized by significantly 54399  
subaverage general intellectual functioning existing concurrently 54400

with deficiencies in the effectiveness or degree with which an 54401  
individual meets the standards of personal independence and social 54402  
responsibility expected of the individual's age and cultural 54403  
group. 54404

(N) "Residential services" means services to individuals with 54405  
mental retardation or other developmental disabilities to provide 54406  
housing, food, clothing, habilitation, staff support, and related 54407  
support services necessary for the health, safety, and welfare of 54408  
the individuals and the advancement of their quality of life. 54409  
"Residential services" includes program management, as described 54410  
in section 5126.14 of the Revised Code. 54411

(O) "Resources" means available capital and other assets, 54412  
including moneys received from the federal, state, and local 54413  
governments, private grants, and donations; appropriately 54414  
qualified personnel; and appropriate capital facilities and 54415  
equipment. 54416

(P) "Service and support administration" means the duties 54417  
performed by a service and support administrator pursuant to 54418  
section 5126.15 of the Revised Code. 54419

(Q)(1) "Specialized medical, adaptive, and assistive 54420  
equipment, supplies, and supports" means equipment, supplies, and 54421  
supports that enable an individual to increase the ability to 54422  
perform activities of daily living or to perceive, control, or 54423  
communicate within the environment. 54424

(2) "Specialized medical, adaptive, and assistive equipment, 54425  
supplies, and supports" includes the following: 54426

(a) Eating utensils, adaptive feeding dishes, plate guards, 54427  
mylatex straps, hand splints, reaches, feeder seats, adjustable 54428  
pointer sticks, interpreter services, telecommunication devices 54429  
for the deaf, computerized communications boards, other 54430  
communication devices, support animals, veterinary care for 54431

support animals, adaptive beds, supine boards, prone boards, 54432  
wedges, sand bags, sidelayers, bolsters, adaptive electrical 54433  
switches, hand-held shower heads, air conditioners, humidifiers, 54434  
emergency response systems, folding shopping carts, vehicle lifts, 54435  
vehicle hand controls, other adaptations of vehicles for 54436  
accessibility, and repair of the equipment received. 54437

(b) Nondisposable items not covered by medicaid that are 54438  
intended to assist an individual in activities of daily living or 54439  
instrumental activities of daily living. 54440

(R) "Supportive home services" means a range of services to 54441  
families of individuals with mental retardation or other 54442  
developmental disabilities to develop and maintain increased 54443  
acceptance and understanding of such persons, increased ability of 54444  
family members to teach the person, better coordination between 54445  
school and home, skills in performing specific therapeutic and 54446  
management techniques, and ability to cope with specific 54447  
situations. 54448

(S)(1) "Supported living" means services provided for as long 54449  
as twenty-four hours a day to an individual with mental 54450  
retardation or other developmental disability through any public 54451  
or private resources, including moneys from the individual, that 54452  
enhance the individual's reputation in community life and advance 54453  
the individual's quality of life by doing the following: 54454

(a) Providing the support necessary to enable an individual 54455  
to live in a residence of the individual's choice, with any number 54456  
of individuals who are not disabled, or with not more than three 54457  
individuals with mental retardation and developmental disabilities 54458  
unless the individuals are related by blood or marriage; 54459

(b) Encouraging the individual's participation in the 54460  
community; 54461

(c) Promoting the individual's rights and autonomy; 54462

(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence. 54463  
54464  
54465

(2) "Supported living" includes the provision of all of the following: 54466  
54467

(a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services; 54468  
54469  
54470  
54471

(b) A combination of life-long or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies; 54472  
54473  
54474  
54475  
54476

(c) Personal care services and homemaker services; 54477

(d) Household maintenance that does not include modifications to the physical structure of the residence; 54478  
54479

(e) Respite care services; 54480

(f) Program management, as described in section 5126.14 of the Revised Code. 54481  
54482

**Sec. 5126.042.** (A) As used in this section: 54483

~~(1)~~ "~~Emergency~~", "emergency" means any situation that creates for an individual with mental retardation or developmental disabilities a risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An "emergency" may include one or more of the following situations: 54484  
54485  
54486  
54487  
54488

~~(a)~~ (1) Loss of present residence for any reason, including legal action; 54489  
54490

~~(b)~~ (2) Loss of present caretaker for any reason, including 54491

serious illness of the caretaker, change in the caretaker's 54492  
status, or inability of the caretaker to perform effectively for 54493  
the individual; 54494

~~(e)(3)~~ Abuse, neglect, or exploitation of the individual; 54495

~~(d)(4)~~ Health and safety conditions that pose a serious risk 54496  
to the individual or others of immediate harm or death; 54497

~~(e)(5)~~ Change in the emotional or physical condition of the 54498  
individual that necessitates substantial accommodation that cannot 54499  
be reasonably provided by the individual's existing caretaker. 54500

~~(2) "Medicaid" has the same meaning as in section 5111.01 of 54501  
the Revised Code. 54502~~

(B) If a county board of mental retardation and developmental 54503  
disabilities determines that available resources are not 54504  
sufficient to meet the needs of all individuals who request 54505  
programs and services and may be offered the programs and 54506  
services, it shall establish waiting lists for services. The board 54507  
may establish priorities for making placements on its waiting 54508  
lists according to an individual's emergency status and shall 54509  
establish priorities in accordance with ~~division~~ divisions (D) and 54510  
(E) of this section. 54511

The individuals who may be placed on a waiting list include 54512  
individuals with a need for services on an emergency basis and 54513  
individuals who have requested services for which resources are 54514  
not available. 54515

Except for an individual who is to receive priority for 54516  
services pursuant to division (D)(3) of this section, an 54517  
individual who currently receives a service but would like to 54518  
change to another service shall not be placed on a waiting list 54519  
but shall be placed on a service substitution list. The board 54520  
shall work with the individual, service providers, and all 54521  
appropriate entities to facilitate the change in service as 54522



expeditiously as possible. The board may establish priorities for 54523  
making placements on its service substitution lists according to 54524  
an individual's emergency status. 54525

In addition to maintaining waiting lists and service 54526  
substitution lists, a board shall maintain a long-term service 54527  
planning registry for individuals who wish to record their 54528  
intention to request in the future a service they are not 54529  
currently receiving. The purpose of the registry is to enable the 54530  
board to document requests and to plan appropriately. The board 54531  
may not place an individual on the registry who meets the 54532  
conditions for receipt of services on an emergency basis. 54533

(C) A county board shall establish a separate waiting list 54534  
for each of the following categories of services, and may 54535  
establish separate waiting lists within the waiting lists: 54536

(1) Early childhood services; 54537

(2) Educational programs for preschool and school age 54538  
children; 54539

(3) Adult services; 54540

(4) Service and support administration; 54541

(5) Residential services and supported living; 54542

(6) Transportation services; 54543

(7) Other services determined necessary and appropriate for 54544  
persons with mental retardation or a developmental disability 54545  
according to their individual habilitation or service plans; 54546

(8) Family support services provided under section 5126.11 of 54547  
the Revised Code. 54548

(D) Except as provided in division ~~(F)~~(G) of this section, a 54549  
county board shall do, as priorities, all of the following in 54550  
accordance with the assessment component, approved under section 54551  
5123.046 of the Revised Code, of the county board's plan developed 54552

under section 5126.054 of the Revised Code: 54553

(1) For the purpose of obtaining additional federal medicaid 54554  
funds for home and community-based services, medicaid case 54555  
management services, and habilitation center services, do both of 54556  
the following: 54557

(a) Give an individual who is eligible for home and 54558  
community-based services and meets both of the following 54559  
requirements priority over any other individual on a waiting list 54560  
established under division (C) of this section for home and 54561  
community-based services that include supported living, 54562  
residential services, or family support services: 54563

(i) Is twenty-two years of age or older; 54564

(ii) Receives supported living or family support services. 54565

(b) Give an individual who is eligible for home and 54566  
community-based services and meets both of the following 54567  
requirements priority over any other individual on a waiting list 54568  
established under division (C) of this section for home and 54569  
community-based services that include adult services: 54570

(i) Resides in the individual's own home or the home of the 54571  
individual's family and will continue to reside in that home after 54572  
enrollment in home and community-based services; 54573

(ii) Receives adult services from the county board. 54574

(2) As federal medicaid funds become available pursuant to 54575  
division (D)(1) of this section, give an individual who is 54576  
eligible for home and community-based services and meets any of 54577  
the following requirements priority for such services over any 54578  
other individual on a waiting list established under division (C) 54579  
of this section: 54580

(a) Does not receive residential services or supported 54581  
living, either needs services in the individual's current living 54582

arrangement or will need services in a new living arrangement, and 54583  
has a primary caregiver who is sixty years of age or older; 54584

(b) Is less than twenty-two years of age and has at least one 54585  
of the following service needs that are unusual in scope or 54586  
intensity: 54587

(i) Severe behavior problems for which a behavior support 54588  
plan is needed; 54589

(ii) An emotional disorder for which anti-psychotic 54590  
medication is needed; 54591

(iii) A medical condition that leaves the individual 54592  
dependent on life-support medical technology; 54593

(iv) A condition affecting multiple body systems for which a 54594  
combination of specialized medical, psychological, educational, or 54595  
habilitation services are needed; 54596

(v) A condition the county board determines to be comparable 54597  
in severity to any condition described in division (D)(2)(b)(i) to 54598  
(iv) of this section and places the individual at significant risk 54599  
of institutionalization. 54600

(c) Is twenty-two years of age or older, does not receive 54601  
residential services or supported living, and is determined by the 54602  
county board to have intensive needs for home and community-based 54603  
services on an in-home or out-of-home basis. 54604

(3) In fiscal years 2002 and 2003, give an individual who is 54605  
eligible for home and community-based services, resides in an 54606  
intermediate care facility for the mentally retarded or nursing 54607  
facility, chooses to move to another setting with the help of home 54608  
and community-based services, and has been determined by the 54609  
department of mental retardation and developmental disabilities to 54610  
be capable of residing in the other setting, priority over any 54611  
other individual on a waiting list established under division (C) 54612

of this section for home and community-based services who does not 54613  
meet these criteria. The department of mental retardation and 54614  
developmental disabilities shall identify the individuals to 54615  
receive priority under division (D)(3) of this section, assess the 54616  
needs of the individuals, and notify the county boards that are to 54617  
provide the individuals priority under division (D)(3) of this 54618  
section of the individuals identified by the department and the 54619  
individuals' assessed needs. 54620

(E) Except as provided in division (G) of this section and 54621  
for a number of years and beginning on a date specified in rules 54622  
adopted under division (K) of this section, a county board shall 54623  
give an individual who is eligible for home and community-based 54624  
services, resides in a nursing facility, and chooses to move to 54625  
another setting with the help of home and community-based 54626  
services, priority over any other individual on a waiting list 54627  
established under division (C) of this section for home and 54628  
community-based services who does not meet these criteria. 54629

(F) If two or more individuals on a waiting list established 54630  
under division (C) of this section for home and community-based 54631  
services have priority for the services pursuant to division 54632  
(D)(1) or (2) or (E) of this section, a county board may use, 54633  
until December 31, 2003, criteria specified in rules adopted under 54634  
division ~~(J)~~(K)(2) of this section in determining the order in 54635  
which the individuals with priority will be offered the services. 54636  
Otherwise, the county board shall offer the home and 54637  
community-based services to such individuals in the order they are 54638  
placed on the waiting list. 54639

~~(F)~~(G)(1) No individual may receive priority for services 54640  
pursuant to division (D) or (E) of this section over an individual 54641  
placed on a waiting list established under division (C) of this 54642  
section on an emergency status. 54643

(2) No more than four hundred individuals in the state may 54644

receive priority for services during the 2002 and 2003 biennium 54645  
pursuant to division (D)(2)(b) of this section. 54646

(3) No more than a total of seventy-five individuals in the 54647  
state may receive priority for services during state fiscal years 54648  
2002 and 2003 pursuant to division (D)(3) of this section. 54649

~~(G)(4) No more than forty individuals in the state may 54650  
receive priority for services pursuant to division (E) of this 54651  
section for each year that priority category is in effect as 54652  
specified in rules adopted under division (K) of this section. 54653~~

~~(H) Prior to establishing any waiting list under this 54654  
section, a county board shall develop and implement a policy for 54655  
waiting lists that complies with this section and rules adopted 54656  
under division ~~(J)~~(K) of this section. 54657~~

Prior to placing an individual on a waiting list, the county 54658  
board shall assess the service needs of the individual in 54659  
accordance with all applicable state and federal laws. The county 54660  
board shall place the individual on the appropriate waiting list 54661  
and may place the individual on more than one waiting list. The 54662  
county board shall notify the individual of the individual's 54663  
placement and position on each waiting list on which the 54664  
individual is placed. 54665

At least annually, the county board shall reassess the 54666  
service needs of each individual on a waiting list. If it 54667  
determines that an individual no longer needs a program or 54668  
service, the county board shall remove the individual from the 54669  
waiting list. If it determines that an individual needs a program 54670  
or service other than the one for which the individual is on the 54671  
waiting list, the county board shall provide the program or 54672  
service to the individual or place the individual on a waiting 54673  
list for the program or service in accordance with the board's 54674  
policy for waiting lists. 54675

When a program or service for which there is a waiting list 54676  
becomes available, the county board shall reassess the service 54677  
needs of the individual next scheduled on the waiting list to 54678  
receive that program or service. If the reassessment demonstrates 54679  
that the individual continues to need the program or service, the 54680  
board shall offer the program or service to the individual. If it 54681  
determines that an individual no longer needs a program or 54682  
service, the county board shall remove the individual from the 54683  
waiting list. If it determines that an individual needs a program 54684  
or service other than the one for which the individual is on the 54685  
waiting list, the county board shall provide the program or 54686  
service to the individual or place the individual on a waiting 54687  
list for the program or service in accordance with the board's 54688  
policy for waiting lists. The county board shall notify the 54689  
individual of the individual's placement and position on the 54690  
waiting list on which the individual is placed. 54691

~~(H)~~(I) A child subject to a determination made pursuant to 54692  
section 121.38 of the Revised Code who requires the home and 54693  
community-based services provided through ~~the~~ a medicaid component 54694  
that the department of mental retardation and developmental 54695  
disabilities administers under section 5111.871 of the Revised 54696  
Code shall receive services through that medicaid component. For 54697  
all other services, a child subject to a determination made 54698  
pursuant to section 121.38 of the Revised Code shall be treated as 54699  
an emergency by the county boards and shall not be subject to a 54700  
waiting list. 54701

~~(I)~~(J) Not later than the fifteenth day of March of each 54702  
even-numbered year, each county board shall prepare and submit to 54703  
the director of mental retardation and developmental disabilities 54704  
its recommendations for the funding of services for individuals 54705  
with mental retardation and developmental disabilities and its 54706  
proposals for reducing the waiting lists for services. 54707

~~(J)~~(K)(1) The department of mental retardation and 54708  
developmental disabilities shall adopt rules in accordance with 54709  
Chapter 119. of the Revised Code governing waiting lists 54710  
established under this section. The rules shall include procedures 54711  
to be followed to ensure that the due process rights of 54712  
individuals placed on waiting lists are not violated. 54713

(2) As part of the rules adopted under this division, the 54714  
department shall adopt, ~~not later than December 31, 2001,~~ rules 54715  
establishing criteria a county board may use under division ~~(E)~~(F) 54716  
of this section in determining the order in which individuals with 54717  
priority for home and community-based services will be offered the 54718  
services. The rules shall also specify conditions under which a 54719  
county board, when there is no individual with priority for home 54720  
and community-based services pursuant to division (D)(1) or (2) or 54721  
(E) of this section available and appropriate for the services, 54722  
may offer the services to an individual on a waiting list for the 54723  
services but not given such priority for the services. The rules 54724  
adopted under division ~~(J)~~(K)(2) of this section shall cease to 54725  
have effect December 31, 2003. 54726

~~(K)~~(3) As part of the rules adopted under this division, the 54727  
department shall adopt rules specifying both of the following for 54728  
the priority category established under division (E) of this 54729  
section: 54730

(a) The number of years, which shall not exceed five, that 54731  
the priority category will be in effect; 54732

(b) The date that the priority category is to go into effect. 54733

(L) The following shall take precedence over the applicable 54734  
provisions of this section: 54735

(1) Medicaid rules and regulations; 54736

(2) Any specific requirements that may be contained within a 54737

medicaid state plan amendment or waiver program that a county 54738  
board has authority to administer or with respect to which it has 54739  
authority to provide services, programs, or supports. 54740

**Sec. 5126.11.** (A) As used in this section, "respite care" 54741  
means appropriate, short-term, temporary care that is provided to 54742  
a mentally retarded or developmentally disabled person to sustain 54743  
the family structure or to meet planned or emergency needs of the 54744  
family. 54745

(B) Subject to rules adopted by the director of mental 54746  
retardation and developmental disabilities, and subject to the 54747  
availability of money from state and federal sources, the county 54748  
board of mental retardation and developmental disabilities shall 54749  
establish a family support services program. Under such a program, 54750  
the board shall make payments to an individual with mental 54751  
retardation or other developmental disability or the family of an 54752  
individual with mental retardation or other developmental 54753  
disability who desires to remain in and be supported in the family 54754  
home. Payments shall be made for all or part of costs incurred or 54755  
estimated to be incurred for services that would promote 54756  
self-sufficiency and normalization, prevent or reduce 54757  
inappropriate institutional care, and further the unity of the 54758  
family by enabling the family to meet the special needs of the 54759  
individual and to live as much like other families as possible. 54760  
Payments may be made in the form of reimbursement for expenditures 54761  
or in the form of vouchers to be used to purchase services. 54762

(C) Payment shall not be made under this section to an 54763  
individual or the individual's family if the individual is living 54764  
in a residential facility that is providing residential services 54765  
under contract with the department of mental retardation and 54766  
developmental disabilities or a county board. 54767

(D) Payments may be made for the following services: 54768



- (1) Respite care, in or out of the home; 54769
- (2) Counseling, supervision, training, and education of the 54770  
individual, the individual's caregivers, and members of the 54771  
individual's family that aid the family in providing proper care 54772  
for the individual, provide for the special needs of the family, 54773  
and assist in all aspects of the individual's daily living; 54774
- (3) Special diets, purchase or lease of special equipment, or 54775  
modifications of the home, if such diets, equipment, or 54776  
modifications are necessary to improve or facilitate the care and 54777  
living environment of the individual; 54778
- (4) Providing support necessary for the individual's 54779  
continued skill development, including such services as 54780  
development of interventions to cope with unique problems that may 54781  
occur within the complexity of the family, enrollment of the 54782  
individual in special summer programs, provision of appropriate 54783  
leisure activities, and other social skills development 54784  
activities; 54785
- (5) Any other services that are consistent with the purposes 54786  
specified in division (B) of this section and specified in the 54787  
individual's service plan. 54788
- (E) In order to be eligible for payments under a family 54789  
support services program, the individual or the individual's 54790  
family must reside in the county served by the county board, and 54791  
the individual must be in need of habilitation. Payments shall be 54792  
adjusted for income in accordance with the payment schedule 54793  
established in rules adopted under this section. Payments shall be 54794  
made only after the county board has taken into account all other 54795  
available assistance for which the individual or family is 54796  
eligible. 54797
- (F) Before incurring expenses for a service for which payment 54798  
will be sought under a family support services program, the 54799

individual or family shall apply to the county board for a 54800  
determination of eligibility and approval of the service. The 54801  
service need not be provided in the county served by the county 54802  
board. After being determined eligible and receiving approval for 54803  
the service, the individual or family may incur expenses for the 54804  
service or use the vouchers received from the county board for the 54805  
purchase of the service. 54806

If the county board refuses to approve a service, an appeal 54807  
may be made in accordance with rules adopted by the department 54808  
under this section. 54809

(G) To be reimbursed for expenses incurred for approved 54810  
services, the individual or family shall submit to the county 54811  
board a statement of the expenses incurred accompanied by any 54812  
evidence required by the board. To redeem vouchers used to 54813  
purchase approved services, the entity that provided the service 54814  
shall submit to the county board evidence that the service was 54815  
provided and a statement of the charges. The county board shall 54816  
make reimbursements and redeem vouchers no later than forty-five 54817  
days after it receives the statements and evidence required by 54818  
this division. 54819

(H) A county board shall consider the following objectives in 54820  
carrying out a family support services program: 54821

(1) Enabling individuals to return to their families from an 54822  
institution under the jurisdiction of the department of mental 54823  
retardation and developmental disabilities; 54824

(2) Enabling individuals found to be subject to 54825  
institutionalization by court order under section 5123.76 of the 54826  
Revised Code to remain with their families with the aid of 54827  
payments provided under this section; 54828

(3) Providing services to eligible children and adults 54829  
currently residing in the community; 54830

(4) Providing services to individuals with developmental disabilities who are not receiving other services from the board.	54831 54832
(I) The director shall adopt, and may amend and rescind, rules for the implementation of family support services programs by county boards. Such rules shall include the following:	54833 54834 54835
(1) A payment schedule adjusted for income;	54836
(2) A formula for distributing to county boards the money appropriated for family support services;	54837 54838
(3) Standards for supervision, training, and quality control in the provision of respite care services;	54839 54840
(4) Eligibility standards and procedures for providing temporary emergency respite care;	54841 54842
(5) Procedures for hearing and deciding appeals made under division (F) of this section;	54843 54844
(6) Requirements to be followed by county boards regarding reports submitted under division (K) of this section.	54845 54846
Rules adopted under divisions (I)(1) and (2) of this section shall be adopted in accordance with section 111.15 of the Revised Code. Rules adopted under divisions (I)(3) to (6) of this section shall be adopted in accordance with Chapter 119. of the Revised Code.	54847 54848 54849 54850 54851
(J) All individuals certified by the superintendent of the county board as eligible for temporary emergency respite care in accordance with rules adopted under this section shall be considered eligible for temporary emergency respite care for not more than five days to permit the determination of eligibility for family support services. The requirements of divisions (E) and (F) of this section do not apply to temporary emergency respite care.	54852 54853 54854 54855 54856 54857 54858
(K) <del>On the first day of July of each year, the</del> The department of mental retardation and developmental disabilities shall	54859 54860

distribute to county boards money appropriated for family support 54861  
services in quarterly installments of equal amounts. The 54862  
installments shall be made not later than the thirtieth day of 54863  
September, the thirty-first day of December, the thirty-first day 54864  
of March, and the thirtieth day of June. A county board shall use 54865  
no more than seven per cent of the funds for administrative costs. 54866  
Each county board shall submit reports to the department on 54867  
payments made under this section. The reports shall be submitted 54868  
at those times and in the manner specified in rules adopted under 54869  
this section. 54870

(L) The county board shall not be required to make payments 54871  
for family support services at a level that exceeds available 54872  
state and federal funds for such payments. 54873

**Sec. 5126.12.** (A) As used in this section: 54874

(1) "Approved school age class" means a class operated by a 54875  
county board of mental retardation and developmental disabilities 54876  
and funded by the department of education under section 3317.20 of 54877  
the Revised Code. 54878

(2) "Approved preschool unit" means a class or unit operated 54879  
by a county board of mental retardation and developmental 54880  
disabilities and approved ~~by the state board of education~~ under 54881  
division (B) of section 3317.05 of the Revised Code. 54882

(3) "Active treatment" means a continuous treatment program, 54883  
which includes aggressive, consistent implementation of a program 54884  
of specialized and generic training, treatment, health services, 54885  
and related services, that is directed toward the acquisition of 54886  
behaviors necessary for an individual with mental retardation or 54887  
other developmental disability to function with as much 54888  
self-determination and independence as possible and toward the 54889  
prevention of deceleration, regression, or loss of current optimal 54890  
functional status. 54891

(4) "Eligible for active treatment" means that an individual 54892  
with mental retardation or other developmental disability resides 54893  
in an intermediate care facility for the mentally retarded 54894  
certified under Title XIX of the "Social Security Act," ~~49~~ 79 54895  
Stat. ~~620~~ 286 (~~1935~~ 1965), 42 U.S.C. ~~301~~ 1396, as amended; resides 54896  
in a state institution operated by the department of mental 54897  
retardation and developmental disabilities; or is enrolled in a 54898  
home and community-based services waiver program ~~administered by~~ 54899  
~~the department of mental retardation and developmental~~ 54900  
~~disabilities as part of the medical assistance program established~~ 54901  
~~under section 5111.01 of the Revised Code.~~ 54902

(5) "Community alternative funding system" means the program 54903  
under which habilitation center services are reimbursed under the 54904  
medicaid program pursuant to section 5111.041 of the Revised Code 54905  
and rules adopted under that section. 54906

(6) "Traditional adult services" means vocational and 54907  
nonvocational activities conducted within a sheltered workshop or 54908  
adult activity center or supportive home services. 54909

(B) Each county board of mental retardation and developmental 54910  
disabilities shall certify to the director of mental retardation 54911  
and developmental disabilities all of the following: 54912

(1) On or before the fifteenth day of October, the average 54913  
daily membership for the first full week of programs and services 54914  
during October receiving: 54915

(a) Early childhood services provided pursuant to section 54916  
5126.05 of the Revised Code for children who are less than three 54917  
years of age on the thirtieth day of September of the academic 54918  
year; 54919

(b) Special education for handicapped children in approved 54920  
school age classes; 54921

(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:

(i) Persons enrolled in traditional adult services who are eligible for but not enrolled in active treatment under the community alternative funding system;

(ii) Persons enrolled in traditional adult services who are eligible for and enrolled in active treatment under the community alternative funding system;

(iii) Persons enrolled in traditional adult services but who are not eligible for active treatment under the community alternative funding system;

(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.

(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.

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.

The department of mental retardation and developmental disabilities shall adopt rules defining full-time equivalent enrollees and for determining the average daily membership therefrom, except that certification of average daily membership in approved school age classes shall be in accordance with rules adopted by the state board of education. The average daily

membership figure shall be determined by dividing the amount 54952  
representing the sum of the number of enrollees in each program or 54953  
service in the week for which the certification is made by the 54954  
number of days the program or service was offered in that week. No 54955  
enrollee may be counted in average daily membership for more than 54956  
one program or service. 54957

(2) By the fifteenth day of December, the number of children 54958  
enrolled in approved preschool units on the first day of December; 54959

(3) On or before the thirtieth day of March, an itemized 54960  
report of all income and operating expenditures for the 54961  
immediately preceding calendar year, in the format specified by 54962  
the department of mental retardation and developmental 54963  
disabilities; 54964

(4) By the fifteenth day of February, a report of the total 54965  
annual cost per enrollee for operation of programs and services in 54966  
the preceding calendar year. The report shall include a grand 54967  
total of all programs operated, the cost of the individual 54968  
programs, and the sources of funds applied to each program. 54969

(5) That each required certification and report is in 54970  
accordance with rules established by the department of mental 54971  
retardation and developmental disabilities and the state board of 54972  
education for the operation and subsidization of the programs and 54973  
services. 54974

(C) To compute payments under this section to the board for 54975  
the fiscal year, the department of mental retardation and 54976  
developmental disabilities shall use the certification of average 54977  
daily membership required by division (B)(1) of this section 54978  
exclusive of the average daily membership in any approved school 54979  
age class and the number in any approved preschool unit. 54980

(D) The department shall pay each county board for each 54981  
fiscal year an amount equal to nine hundred fifty dollars times 54982

the certified number of persons who on the first day of December 54983  
of the academic year are under three years of age and are not in 54984  
an approved preschool unit. For persons who are at least age 54985  
sixteen and are not in an approved school age class, the 54986  
department shall pay each county board for each fiscal year the 54987  
following amounts: 54988

(1) One thousand dollars times the certified average daily 54989  
membership of persons enrolled in traditional adult services who 54990  
are eligible for but not enrolled in active treatment under the 54991  
community alternative funding system; 54992

(2) One thousand two hundred dollars times the certified 54993  
average daily membership of persons enrolled in traditional adult 54994  
services who are eligible for and enrolled in active treatment 54995  
under the community alternative funding system; 54996

(3) No less than one thousand five hundred dollars times the 54997  
certified average daily membership of persons enrolled in 54998  
traditional adult services but who are not eligible for active 54999  
treatment under the community alternative funding system; 55000

(4) No less than one thousand five hundred dollars times the 55001  
certified average daily membership of persons participating in 55002  
community employment services. 55003

(E) The department shall distribute this subsidy to county 55004  
boards in ~~semiannual~~ quarterly installments of equal amounts. The 55005  
installments shall be made not later than the thirtieth day of 55006  
September, the thirty-first day of ~~August and December,~~ the 55007  
thirty-first day of ~~January~~ March, and the thirtieth day of June. 55008

(F) The director of mental retardation and developmental 55009  
disabilities shall make efforts to obtain increases in the 55010  
subsidies for early childhood services and adult services so that 55011  
the amount of the subsidies is equal to at least fifty per cent of 55012  
the statewide average cost of those services minus any applicable 55013



federal reimbursements for those services. The director shall 55014  
advise the director of budget and management of the need for any 55015  
such increases when submitting the biennial appropriations request 55016  
for the department. 55017

(G) In determining the reimbursement of a county board for 55018  
the provision of service and support administration, family 55019  
support services, and other services required or approved by the 55020  
director for which children three through twenty-one years of age 55021  
are eligible, the department shall include the average daily 55022  
membership in approved school age or preschool units. The 55023  
department, in accordance with this section and upon receipt and 55024  
approval of the certification required by this section and any 55025  
other information it requires to enable it to determine a board's 55026  
payments, shall pay the agency providing the specialized training 55027  
the amounts payable under this section. 55028

**Sec. 5126.121.** Each county board of mental retardation and 55029  
developmental disabilities may be eligible to receive a subsidy 55030  
from the department of mental retardation and developmental 55031  
disabilities for the employment of a business manager as provided 55032  
in this section. The department shall adopt rules in accordance 55033  
with Chapter 119. of the Revised Code specifying standards for the 55034  
employment of such a business manager. The rules shall include the 55035  
minimum education and experience requirements for the position of 55036  
business manager and shall specify requirements for courses in 55037  
fiscal and business management that are annually sponsored or 55038  
certified by the department and that are applicable to the 55039  
position and designed to teach effective business practices. Each 55040  
county board of mental retardation and developmental disabilities 55041  
that employs a business manager in accordance with the standards 55042  
adopted under this section may receive a subsidy from the 55043  
department. 55044

The department shall distribute this subsidy to eligible county boards in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June.

**Sec. 5126.15.** (A) A county board of mental retardation and developmental disabilities shall provide service and support administration to each individual three years of age or older who is eligible for service and support administration if the individual requests, or a person on the individual's behalf requests, service and support administration. A board shall provide service and support administration to each individual receiving home and community-based services. A board may provide, in accordance with the service coordination requirements of 34 C.F.R. 303.23, service and support administration to an individual under three years of age eligible for early intervention services under 34 C.F.R. part 303. A board may provide service and support administration to an individual who is not eligible for other services of the board. Service and support administration shall be provided in accordance with rules adopted under section 5126.08 of the Revised Code.

A board may provide service and support administration by directly employing service and support administrators or by contracting with entities for the performance of service and support administration. Individuals employed or under contract as service and support administrators shall not be in the same collective bargaining unit as employees who perform duties that are not administrative.

Individuals employed by a board as service and support administrators shall not be assigned responsibilities for implementing other services for individuals and shall not be

employed by or serve in a decision-making or policy-making 55076  
capacity for any other entity that provides programs or services 55077  
to individuals with mental retardation or developmental 55078  
disabilities. An individual employed as a conditional status 55079  
service and support administrator shall perform the duties of 55080  
service and support administration only under the supervision of a 55081  
management employee who is a service and support administration 55082  
supervisor or a professional employee who is a service and support 55083  
administrator. 55084

(B) The individuals employed by or under contract with a 55085  
board to provide service and support administration shall do all 55086  
of the following: 55087

(1) Establish an individual's eligibility for the services of 55088  
the county board of mental retardation and developmental 55089  
disabilities; 55090

(2) Assess individual needs for services; 55091

(3) Develop individual service plans with the active 55092  
participation of the individual to be served, other persons 55093  
selected by the individual, and, when applicable, the provider 55094  
selected by the individual, and recommend the plans for approval 55095  
by the department of mental retardation and developmental 55096  
disabilities when services included in the plans are funded 55097  
through medicaid; 55098

(4) Establish budgets for services based on the individual's 55099  
assessed needs and preferred ways of meeting those needs; 55100

(5) Assist individuals in making selections from among the 55101  
providers they have chosen; 55102

(6) Ensure that services are effectively coordinated and 55103  
provided by appropriate providers; 55104

(7) Establish and implement an ongoing system of monitoring 55105

the implementation of individual service plans to achieve 55106  
consistent implementation and the desired outcomes for the 55107  
individual; 55108

(8) Perform quality assurance reviews as a distinct function 55109  
of service and support administration; 55110

(9) Incorporate the results of quality assurance reviews and 55111  
identified trends and patterns of unusual incidents and major 55112  
unusual incidents into amendments of an individual's service plan 55113  
for the purpose of improving and enhancing the quality and 55114  
appropriateness of services rendered to the individual; 55115

(10) Ensure that each individual receiving services has a 55116  
designated person who is responsible on a continuing basis for 55117  
providing the individual with representation, advocacy, advice, 55118  
and assistance related to the day-to-day coordination of services 55119  
in accordance with the individual's service plan. The service and 55120  
support administrator shall give the individual receiving services 55121  
an opportunity to designate the person to provide daily 55122  
representation. If the individual declines to make a designation, 55123  
the administrator shall make the designation. In either case, the 55124  
individual receiving services may change at any time the person 55125  
designated to provide daily representation. 55126

(C) Subject to available funds, the department of mental 55127  
retardation and developmental disabilities shall pay a county 55128  
board an annual subsidy for service and support administration. 55129  
The amount of the subsidy shall be equal to the greater of twenty 55130  
thousand dollars or two hundred dollars times the board's 55131  
certified average daily membership. The payments shall be made in 55132  
~~semiannual~~ quarterly installments of equal amounts, which shall be 55133  
made no later than the thirtieth day of September, the 55134  
thirty-first day of August and December, the thirty-first day of 55135  
~~January~~ March, and the thirtieth day of June. Funds received shall 55136  
be used solely for service and support administration. 55137

Sec. 5126.18. (A) As used in this section:	55138
(1) "County board" means a county board of mental retardation and developmental disabilities.	55139 55140
(2) Notwithstanding section 5126.01 of the Revised Code, "adult services" means the following services, as they are identified on individual information forms submitted by county boards to the department of mental retardation and developmental disabilities for the purpose of subsidies paid to county boards under section 5126.12 of the Revised Code, provided to an individual with mental retardation or other developmental disability who is at least twenty-two years of age:	55141 55142 55143 55144 55145 55146 55147 55148
(a) Assessment;	55149
(b) Home service;	55150
(c) Adult program;	55151
(d) Community employment services;	55152
(e) Retirement.	55153
(3) "Adult services enrollment" means a county board's average daily membership in adult services, exclusive of such services provided to individuals served solely through service and support administration provided pursuant to section 5126.15 of the Revised Code or family support services provided pursuant to section 5126.11 of the Revised Code.	55154 55155 55156 55157 55158 55159
(4) "Taxable value" means the taxable value of a county board certified under division (B)(1) of this section.	55160 55161
(5) "Per-mill yield" of a county board means the quotient obtained by dividing (a) the taxable value of the county board by (b) one thousand.	55162 55163 55164
(6) "Local adult services cost" means a county board's expenditures for adult services, excluding all federal and state	55165 55166

reimbursements and subsidy allocations received by such boards and 55167  
expended for such services, as certified under section 5126.12 of 55168  
the Revised Code. 55169

(7) "Statewide average millage" means one thousand multiplied 55170  
by the quotient obtained by dividing (a) the total of the local 55171  
adult services costs of all county boards by (b) the total of the 55172  
taxable values of all county boards. 55173

(8) "County yield" of a county board means the product 55174  
obtained by multiplying (a) the statewide average millage by (b) 55175  
the per-mill yield of the county board. 55176

(9) "County yield per enrollee" of a county board means the 55177  
quotient obtained by dividing (a) the county yield of the county 55178  
board by (b) the adult enrollment of the county board. 55179

(10) "Statewide yield per enrollee" means the quotient 55180  
obtained by dividing (a) the sum of the county yields of all 55181  
county boards by (b) the sum of the adult enrollments of all 55182  
county boards. 55183

(11) "Local tax effort for adult services" of a county board 55184  
means one thousand multiplied by the quotient obtained by dividing 55185  
(a) the local adult services cost of the county board by (b) the 55186  
taxable value of the county board. 55187

(12) "Funding percentage" for a fiscal year means the 55188  
percentage that the amount appropriated to the department for the 55189  
purpose of making payments under this section in the fiscal year 55190  
is of the amount computed under division (C)(3) of this section 55191  
for the fiscal year. 55192

(13) "Funding-adjusted required millage" for a fiscal year 55193  
means the statewide average millage multiplied by the funding 55194  
percentage for that fiscal year. 55195

(B)(1) On the request of the director of mental retardation 55196

and developmental disabilities, the tax commissioner shall provide 55197  
to the department of mental retardation and developmental 55198  
disabilities information specifying the taxable value of property 55199  
on each county's tax list of real and public utility property and 55200  
tax list of personal property for the most recent tax year for 55201  
which such information is available. The director may request any 55202  
other tax information necessary for the purposes of this section. 55203

(2) On the request of the director, each county board shall 55204  
report the county board's adult services enrollment and local 55205  
adult services cost. 55206

(C) Each year, the department of mental retardation and 55207  
developmental disabilities shall compute the following: 55208

(1) For each county board, the amount, if any, by which the 55209  
statewide yield per enrollee exceeds the county yield per 55210  
enrollee; 55211

(2) For each county board, the amount of any excess computed 55212  
under division (C)(1) of this section multiplied by the adult 55213  
services enrollment of the county board; 55214

(3) The sum of the amounts computed under division (C)(2) of 55215  
this section for all county boards. 55216

(D) From money appropriated for the purpose, the department, ~~on or before the thirtieth day of September of each year,~~ shall 55217  
provide for payment to each county board of the amount computed 55218  
for that county board under division (C)(2) of this section, 55219  
subject to any reduction or adjustment under division (E), (F), or 55220  
(G) of this section. The department shall make the payments in 55221  
quarterly installments of equal amounts. The installments shall be 55222  
made not later than the thirtieth day of September, thirty-first 55223  
day of December, thirty-first day of March, and thirtieth day of 55224  
June. 55225  
55226

(E) If a county board's local tax effort for adult services 55227

is less than the funding-adjusted required millage, the director 55228  
shall reduce the amount of payment otherwise computed under 55229  
division (C)(2) of this section so that the amount paid, after the 55230  
reduction, is the same percentage of the amount computed under 55231  
division (C)(2) of this section as the county board's local tax 55232  
effort for adult services is of the funding-adjusted required 55233  
millage. 55234

If the director reduces the amount of a county board's 55235  
payment under this division, the department, not later than the 55236  
fifteenth day of July, shall notify the county board of the 55237  
reduction and the amount of the reduction. The notice shall 55238  
include a statement that the county board may request to be 55239  
exempted from the reduction by filing a request with the director, 55240  
in the manner and form prescribed by the director, within 55241  
twenty-one days after such notification is issued. The board may 55242  
present evidence of its attempt to obtain passage of levies or any 55243  
other extenuating circumstances the board considers relevant. If 55244  
the county board requests a hearing before the director to present 55245  
such evidence, the director shall conduct a hearing on the request 55246  
unless the director exempts the board from the reduction on the 55247  
basis of the evidence presented in the request filed by the board. 55248  
Upon receiving a properly and timely filed request for exemption, 55249  
but not later than the thirty-first day of August, the director 55250  
shall determine whether the county board shall be exempted from 55251  
all or a part of the reduction. The director may exempt the board 55252  
from all or part of the reduction if the director finds that the 55253  
board has made good faith efforts to obtain passage of tax levies 55254  
or that there are extenuating circumstances. 55255

(F) If a payment is reduced under division (E) of this 55256  
section and the director does not exempt the county board from the 55257  
reduction, the amount of the reduction shall be apportioned among 55258  
all county boards entitled to payments under this section for 55259



which payments were not so reduced. The amount apportioned to each 55260  
county board shall be proportionate to the amount of the board's 55261  
payment as computed under division (C)(2) of this section. 55262

(G) If, for any fiscal year, the amount appropriated to the 55263  
department for the purpose of this section is less than the amount 55264  
computed under division (C)(3) of this section for the fiscal 55265  
year, the department shall adjust the amount of each payment as 55266  
computed under divisions (C)(2), (E), and (F) of this section by 55267  
multiplying that amount by the funding percentage. 55268

(H) The payments authorized by this section are supplemental 55269  
to all other funds that may be received by a county board. A 55270  
county board shall use the payments solely to pay the nonfederal 55271  
share of medicaid expenditures that division (A) of section 55272  
5126.057 of the Revised Code requires the county board to pay. 55273

**Sec. 5126.44.** (A) The department of mental retardation and 55274  
developmental disabilities, in accordance with Chapter 119. of the 55275  
Revised Code, shall adopt rules for making allocations for 55276  
counties and distributing to county boards of mental retardation 55277  
and developmental disabilities money to be used for planning, 55278  
development, contracting for, and providing supported living. The 55279  
rules shall provide for an allocation to be made for each county 55280  
on an equitable basis, taking into account any factors that 55281  
indicate need for supported living for residents of the county. 55282

(B) The department shall annually allocate for each county an 55283  
amount determined in accordance with the rules adopted under this 55284  
section. Except as provided in division (C) of this section, the 55285  
department shall distribute the amount allocated for the county to 55286  
each county board. Money shall be distributed to county boards in 55287  
~~two quarterly installments annually,~~ which shall be paid no later 55288  
~~than the last day of July and the last day of December~~ thirtieth 55289  
day of September, the thirty-first day of December, the 55290

thirty-first day of March, and the thirtieth day of June. In the 55291  
case of a county that has not adopted a resolution under division 55292  
(B) of section 5126.40 of the Revised Code, the department shall 55293  
use the money allocated for the county to provide supported living 55294  
under section 5123.182 of the Revised Code. 55295

(C) The department shall not distribute money to a county 55296  
board for residential services that are being provided by a 55297  
provider under contract with the department on the effective date 55298  
of this amendment unless the provider and the county board agree 55299  
to enter into a contract between the provider and the county board 55300  
under which the provider will provide the services as supported 55301  
living. If the conversion of a contract occurs under this 55302  
division, the provisions of section 5126.451 shall apply as though 55303  
the contract was transferred under that section. 55304

(D) Pursuant to section 5126.05 of the Revised Code, the 55305  
county board shall annually adopt a separate budget for money 55306  
distributed to it under this section. The board shall cause the 55307  
money to be deposited in a fund created pursuant to division (F) 55308  
of section 5705.09 of the Revised Code which shall be known as the 55309  
"community mental retardation and developmental disabilities 55310  
residential services and supported living fund." The fund shall 55311  
consist of this money and any other money for residential services 55312  
or supported living that the board causes to be deposited in the 55313  
fund. A county board is not required to use any other money for 55314  
residential services or supported living. A county board may 55315  
establish a reserve balance account within this fund pursuant to 55316  
division (C)(2) of section 5705.28 of the Revised Code. 55317

(E) The department of mental retardation and developmental 55318  
disabilities may adopt rules under Chapter 119. of the Revised 55319  
Code establishing procedures for an annual reconciliation of state 55320  
funds that have been deposited in the reserve balance account. The 55321  
rules may provide for the return of state funds to the appropriate 55322

department account when the funds have been unexpended for a 55323  
period of two years. 55324

(F) A county board may use up to ten per cent of the amount 55325  
distributed to it under this section for the administrative costs 55326  
of developing, arranging, and contracting for supported living and 55327  
for costs of staff training and support. Annually, each county 55328  
board shall report to the department all revenue and expenditures 55329  
pertaining to supported living. The report shall be made in 55330  
conjunction with the annual report of expenditures submitted 55331  
pursuant to section 5126.12 of the Revised Code. The report shall 55332  
list the names of the individuals served, the total number of 55333  
individuals served on a monthly basis in the preceding calendar 55334  
year, the types of services provided, the total cost of the 55335  
services, and the sources of revenue used to cover the cost. 55336

**Sec. 5139.01.** (A) As used in this chapter: 55337

(1) "Commitment" means the transfer of the physical custody 55338  
of a child or youth from the court to the department of youth 55339  
services. 55340

(2) "Permanent commitment" means a commitment that vests 55341  
legal custody of a child in the department of youth services. 55342

(3) "Legal custody," insofar as it pertains to the status 55343  
that is created when a child is permanently committed to the 55344  
department of youth services, means a legal status in which the 55345  
department has the following rights and responsibilities: the 55346  
right to have physical possession of the child; the right and duty 55347  
to train, protect, and control the child; the responsibility to 55348  
provide the child with food, clothing, shelter, education, and 55349  
medical care; and the right to determine where and with whom the 55350  
child shall live, subject to the minimum periods of, or periods 55351  
of, institutional care prescribed in sections 2152.13 to 2152.18 55352  
of the Revised Code; provided, that these rights and 55353

responsibilities are exercised subject to the powers, rights, 55354  
duties, and responsibilities of the guardian of the person of the 55355  
child, and subject to any residual parental rights and 55356  
responsibilities. 55357

(4) Unless the context requires a different meaning, 55358  
"institution" means a state facility that is created by the 55359  
general assembly and that is under the management and control of 55360  
the department of youth services or a private entity with which 55361  
the department has contracted for the institutional care and 55362  
custody of felony delinquents. 55363

(5) "Full-time care" means care for twenty-four hours a day 55364  
for over a period of at least two consecutive weeks. 55365

(6) "Placement" means the conditional release of a child 55366  
under the terms and conditions that are specified by the 55367  
department of youth services. The department shall retain legal 55368  
custody of a child released pursuant to division (C) of section 55369  
2152.22 of the Revised Code or division (C) of section 5139.06 of 55370  
the Revised Code until the time that it discharges the child or 55371  
until the legal custody is terminated as otherwise provided by 55372  
law. 55373

(7) "Home placement" means the placement of a child in the 55374  
home of the child's parent or parents or in the home of the 55375  
guardian of the child's person. 55376

(8) "Discharge" means that the department of youth services' 55377  
legal custody of a child is terminated. 55378

(9) "Release" means the termination of a child's stay in an 55379  
institution and the subsequent period during which the child 55380  
returns to the community under the terms and conditions of 55381  
supervised release. 55382

(10) "Delinquent child" has the same meaning as in section 55383  
2152.02 of the Revised Code. 55384

(11) "Felony delinquent" means any child who is at least 55385  
~~twelve~~ ten years of age but less than eighteen years of age and 55386  
who is adjudicated a delinquent child for having committed an act 55387  
that if committed by an adult would be a felony. "Felony 55388  
delinquent" includes any adult who is between the ages of eighteen 55389  
and twenty-one and who is in the legal custody of the department 55390  
of youth services for having committed an act that if committed by 55391  
an adult would be a felony. 55392

(12) "Juvenile traffic offender" has the same meaning as in 55393  
section 2152.02 of the Revised Code. 55394

(13) "Public safety beds" means all of the following: 55395

(a) Felony delinquents who have been committed to the 55396  
department of youth services for the commission of an act, other 55397  
than a violation of section 2911.01 or 2911.11 of the Revised 55398  
Code, that is a category one offense or a category two offense and 55399  
who are in the care and custody of an institution or have been 55400  
diverted from care and custody in an institution and placed in a 55401  
community corrections facility; 55402

(b) Felony delinquents who, while committed to the department 55403  
of youth services and in the care and custody of an institution or 55404  
a community corrections facility, are adjudicated delinquent 55405  
children for having committed in that institution or community 55406  
corrections facility an act that if committed by an adult would be 55407  
a misdemeanor or a felony; 55408

(c) Children who satisfy all of the following: 55409

(i) They are at least ~~twelve~~ ten years of age but less than 55410  
eighteen years of age. 55411

(ii) They are adjudicated delinquent children for having 55412  
committed acts that if committed by an adult would be a felony. 55413

(iii) They are committed to the department of youth services 55414

by the juvenile court of a county that has had one-tenth of one 55415  
per cent or less of the statewide adjudications for felony 55416  
delinquents as averaged for the past four fiscal years. 55417

(iv) They are in the care and custody of an institution or a 55418  
community corrections facility. 55419

(d) Felony delinquents who, while committed to the department 55420  
of youth services and in the care and custody of an institution, ~~commit in that institution an act that if committed by an adult~~ 55421  
~~would be a felony, who~~ are serving disciplinary time for having 55422  
committed ~~that~~ an act described in division (A)(19)(a), (b), or 55423  
(c) of this section, and who have been institutionalized or 55424  
institutionalized in a secure facility for the minimum period of 55425  
time specified in divisions (A)(1)(b) to (e) of section 2152.16 of 55426  
the Revised Code. 55427  
55428

(e) Felony delinquents who are subject to and serving a 55429  
three-year period of commitment order imposed by a juvenile court 55430  
pursuant to divisions (A) and (B) of section 2152.17 of the 55431  
Revised Code for an act, other than a violation of section 2911.11 55432  
of the Revised Code, that would be a category one offense or 55433  
category two offense if committed by an adult. 55434

(f) Felony delinquents who are described in divisions 55435  
(A)(13)(a) to (e) of this section, who have been granted a 55436  
judicial release to court supervision under division (B) of 55437  
section 2152.22 of the Revised Code or a judicial release to the 55438  
department of youth services supervision under division (C) of 55439  
that section from the commitment to the department of youth 55440  
services for the act described in divisions (A)(13)(a) to (e) of 55441  
this section, who have violated the terms and conditions of that 55442  
release, and who, pursuant to an order of the court of the county 55443  
in which the particular felony delinquent was placed on release 55444  
that is issued pursuant to division (D) of section 2152.22 of the 55445  
Revised Code, have been returned to the department for 55446

institutionalization or institutionalization in a secure facility. 55447

(g) Felony delinquents who have been committed to the custody 55448  
of the department of youth services, who have been granted 55449  
supervised release from the commitment pursuant to section 5139.51 55450  
of the Revised Code, who have violated the terms and conditions of 55451  
that supervised release, and who, pursuant to an order of the 55452  
court of the county in which the particular child was placed on 55453  
supervised release issued pursuant to division (F) of section 55454  
5139.52 of the Revised Code, have had the supervised release 55455  
revoked and have been returned to the department for 55456  
institutionalization. A felony delinquent described in this 55457  
division shall be a public safety bed only for the time during 55458  
which the felony delinquent is institutionalized as a result of 55459  
the revocation subsequent to the initial thirty-day period of 55460  
institutionalization required by division (F) of section 5139.52 55461  
of the Revised Code. 55462

~~(14) "State target youth" means twenty five per cent of the 55463  
projected total number of felony delinquents for each year of a 55464  
biennium, factoring in revocations and recommitments. 55465~~

~~(15)~~ Unless the context requires a different meaning, 55466  
"community corrections facility" means a county or multicounty 55467  
rehabilitation center for felony delinquents who have been 55468  
committed to the department of youth services and diverted from 55469  
care and custody in an institution and placed in the 55470  
rehabilitation center pursuant to division (E) of section 5139.36 55471  
of the Revised Code. 55472

~~(16)~~(15) "Secure facility" means any facility that is 55473  
designed and operated to ensure that all of its entrances and 55474  
exits are under the exclusive control of its staff and to ensure 55475  
that, because of that exclusive control, no child who has been 55476  
institutionalized in the facility may leave the facility without 55477  
permission or supervision. 55478

<del>(17)</del> (16) "Community residential program" means a program that satisfies both of the following:	55479 55480
(a) It is housed in a building or other structure that has no associated major restraining construction, including, but not limited to, a security fence.	55481 55482 55483
(b) It provides twenty-four-hour care, supervision, and programs for felony delinquents who are in residence.	55484 55485
<del>(18)</del> (17) "Category one offense" and "category two offense" have the same meanings as in section 2151.26 of the Revised Code.	55486 55487
<del>(19)</del> (18) "Disciplinary time" means additional time that the department of youth services requires a felony delinquent to serve in an institution, that delays the <del>person's</del> or felony delinquent's planned release, and that the department imposes upon the <del>person</del> <del>or</del> felony delinquent following the conduct of an internal due process hearing for having committed any of the following acts while committed to the department and in the care and custody of an institution:	55488 55489 55490 55491 55492 55493 55494 55495
(a) An act that if committed by an adult would be a felony;	55496
(b) An act that if committed by an adult would be a misdemeanor;	55497 55498
(c) An act that is not described in division (A) <del>(19)</del> (18)(a) or (b) of this section and that violates an institutional rule of conduct of the department.	55499 55500 55501
<del>(20)</del> (19) "Unruly child" has the same meaning as in section 2151.022 of the Revised Code.	55502 55503
<del>(21)</del> (20) "Revocation" means the act of revoking a child's supervised release for a violation of a term or condition of the child's supervised release in accordance with section 5139.52 of the Revised Code.	55504 55505 55506 55507
<del>(22)</del> (21) "Release authority" means the release authority of	55508



the department of youth services that is established by section 55509  
5139.50 of the Revised Code. 55510

~~(23)~~(22) "Supervised release" means the event of the release 55511  
of a child under this chapter from an institution and the period 55512  
after that release during which the child is supervised and 55513  
assisted by an employee of the department of youth services under 55514  
specific terms and conditions for reintegration of the child into 55515  
the community. 55516

~~(24)~~(23) "Victim" means the person identified in a police 55517  
report, complaint, or information as the victim of an act that 55518  
would have been a criminal offense if committed by an adult and 55519  
that provided the basis for adjudication proceedings resulting in 55520  
a child's commitment to the legal custody of the department of 55521  
youth services. 55522

~~(25)~~(24) "Victim's representative" means a member of the 55523  
victim's family or another person whom the victim or another 55524  
authorized person designates in writing, pursuant to section 55525  
5139.56 of the Revised Code, to represent the victim with respect 55526  
to proceedings of the release authority of the department of youth 55527  
services and with respect to other matters specified in that 55528  
section. 55529

~~(26)~~(25) "Member of the victim's family" means a spouse, 55530  
child, stepchild, sibling, parent, stepparent, grandparent, other 55531  
relative, or legal guardian of a child but does not include a 55532  
person charged with, convicted of, or adjudicated a delinquent 55533  
child for committing a criminal or delinquent act against the 55534  
victim or another criminal or delinquent act arising out of the 55535  
same conduct, criminal or delinquent episode, or plan as the 55536  
criminal or delinquent act committed against the victim. 55537

~~(27)~~(26) "Judicial release to court supervision" means a 55538  
release of a child from institutional care or institutional care 55539

in a secure facility that is granted by a court pursuant to 55540  
division (B) of section 2152.22 of the Revised Code during the 55541  
period specified in that division. 55542

~~(28)~~(27) "Judicial release to department of youth services 55543  
supervision" means a release of a child from institutional care or 55544  
institutional care in a secure facility that is granted by a court 55545  
pursuant to division (C) of section 2152.22 of the Revised Code 55546  
during the period specified in that division. 55547

~~(29)~~(28) "Juvenile justice system" includes all of the 55548  
functions of the juvenile courts, the department of youth 55549  
services, any public or private agency whose purposes include the 55550  
prevention of delinquency or the diversion, adjudication, 55551  
detention, or rehabilitation of delinquent children, and any of 55552  
the functions of the criminal justice system that are applicable 55553  
to children. 55554

~~(30)~~(29) "Metropolitan county criminal justice services 55555  
agency" means an agency that is established pursuant to division 55556  
(A) of section 181.54 of the Revised Code. 55557

~~(31)~~(30) "Administrative planning district" means a district 55558  
that is established pursuant to division (A) or (B) of section 55559  
181.56 of the Revised Code. 55560

~~(32)~~(31) "Criminal justice coordinating council" means a 55561  
criminal justice services agency that is established pursuant to 55562  
division (D) of section 181.56 of the Revised Code. 55563

~~(33)~~(32) "Comprehensive plan" means a document that 55564  
coordinates, evaluates, and otherwise assists, on an annual or 55565  
multi-year basis, all of the functions of the juvenile justice 55566  
systems of the state or a specified area of the state, that 55567  
conforms to the priorities of the state with respect to juvenile 55568  
justice systems, and that conforms with the requirements of all 55569  
federal criminal justice acts. These functions include, but are 55570

not limited to, all of the following: 55571

(a) Delinquency; 55572

(b) Identification, detection, apprehension, and detention of 55573  
persons charged with delinquent acts; 55574

(c) Assistance to crime victims or witnesses, except that the 55575  
comprehensive plan does not include the functions of the attorney 55576  
general pursuant to sections 109.91 and 109.92 of the Revised 55577  
Code; 55578

(d) Adjudication or diversion of persons charged with 55579  
delinquent acts; 55580

(e) Custodial treatment of delinquent children; 55581

(f) Institutional and noninstitutional rehabilitation of 55582  
delinquent children. 55583

(B) There is hereby created the department of youth services. 55584  
The governor shall appoint the director of the department with the 55585  
advice and consent of the senate. The director shall hold office 55586  
during the term of the appointing governor but subject to removal 55587  
at the pleasure of the governor. Except as otherwise authorized in 55588  
section 108.05 of the Revised Code, the director shall devote the 55589  
director's entire time to the duties of the director's office and 55590  
shall hold no other office or position of trust or profit during 55591  
the director's term of office. 55592

The director is the chief executive and administrative 55593  
officer of the department and has all the powers of a department 55594  
head set forth in Chapter 121. of the Revised Code. The director 55595  
may adopt rules for the government of the department, the conduct 55596  
of its officers and employees, the performance of its business, 55597  
and the custody, use, and preservation of the department's 55598  
records, papers, books, documents, and property. The director 55599  
shall be an appointing authority within the meaning of Chapter 55600

124. of the Revised Code. Whenever this or any other chapter or 55601  
section of the Revised Code imposes a duty on or requires an 55602  
action of the department, the duty or action shall be performed by 55603  
the director or, upon the director's order, in the name of the 55604  
department. 55605

**Sec. 5139.04.** The department of youth services shall do all 55606  
of the following: 55607

(A) Support service districts through a central 55608  
administrative office that shall have as its administrative head a 55609  
deputy director who shall be appointed by the director of the 55610  
department. When a vacancy occurs in the office of that deputy 55611  
director, an assistant deputy director shall act as that deputy 55612  
director until the vacancy is filled. The position of deputy 55613  
director and assistant deputy director described in this division 55614  
shall be in the unclassified civil service of the state. 55615

(B) Receive custody of all children committed to it under 55616  
Chapter 2152. of the Revised Code, cause a study to be made of 55617  
those children, and issue any orders, as it considers best suited 55618  
to the needs of any of those children and the interest of the 55619  
public, for the treatment of each of those children; 55620

(C) Obtain personnel necessary for the performance of its 55621  
duties; 55622

(D) ~~Train or provide for training of probation and youth~~ 55623  
~~correction workers;~~ 55624

~~(E)~~ Adopt rules that regulate its organization and operation, 55625  
that implement sections 5139.34 and 5139.41 to ~~5139.45~~ 5139.43 of 55626  
the Revised Code, and that pertain to the administration of other 55627  
sections of this chapter; 55628

~~(F)~~(E) Submit reports of its operations to the governor and 55629  
the general assembly by the thirty-first day of January of each 55630

odd-numbered year; 55631

~~(G)(F)~~ Conduct a program of research in diagnosis, training, 55632  
and treatment of delinquent children to evaluate the effectiveness 55633  
of the department's services and to develop more adequate methods; 55634

~~(H)~~ Receive reports from the juvenile courts under division 55635  
~~(C)(3)(b)~~ of section 5139.43 of the Revised Code and prepare an 55636  
annual report of state juvenile court statistics and information 55637  
based upon those reports. The department shall make available a 55638  
copy of the annual report to the governor and members of the 55639  
general assembly upon request. 55640

~~(I)(G)~~ Develop a standard form for the disposition 55641  
investigation report that a juvenile court is required pursuant to 55642  
section 2152.18 of the Revised Code to complete and provide to the 55643  
department when the court commits a child to the legal custody of 55644  
the department; 55645

~~(J)(H)~~ Do all other acts necessary or desirable to carry out 55646  
this chapter. 55647

**Sec. 5139.33.** (A) The department of youth services shall make 55648  
grants in accordance with this section to encourage counties to 55649  
use community-based programs and services for juveniles who are 55650  
adjudicated delinquent children for the commission of acts that 55651  
would be felonies if committed by an adult. 55652

(B) Each county seeking a grant under this section shall file 55653  
an application with the department of youth services. The 55654  
application shall be filed at the time and in accordance with 55655  
procedures established by the department in rules adopted under 55656  
this section. Each application shall be accompanied by a plan 55657  
designed to reduce the county's commitment percentage, or to 55658  
enable it to maintain or attain a commitment percentage that is 55659  
equal to or below the statewide average commitment percentage. A 55660

county's commitment percentage is the percentage determined by 55661  
dividing the number of juveniles the county committed to the 55662  
department during the year by the number of juveniles who were 55663  
eligible to be committed. The statewide average commitment 55664  
percentage is the percentage determined by dividing the number of 55665  
juveniles in the state committed to the department during the year 55666  
by the number of juveniles who were eligible to be committed. 55667  
These percentages shall be determined by the department using the 55668  
most reliable data available to it. 55669

Each plan shall include a method of ensuring equal access for 55670  
minority youth to the programs and services for which the grant 55671  
will be used. 55672

The department shall review each application and plan to 55673  
ensure that the requirements of this division are satisfied. Any 55674  
county applying for a grant under this section that received a 55675  
grant under this section during the preceding year and that failed 55676  
to meet its commitment goals for that year shall make the changes 55677  
in its plan that the department requires in order to continue to 55678  
be eligible for grants under this section. 55679

(C) Subject to division (E) of this section, the amounts 55680  
appropriated for the purpose of making grants under this section 55681  
shall be distributed annually on a per capita basis among the 55682  
counties that have complied with division (B) of this section. 55683

(D) The department shall adopt rules to implement this 55684  
section. The rules shall include, but are not limited to, 55685  
procedures and schedules for submitting applications and plans 55686  
under this section, including procedures allowing joint-county 55687  
applications and plans; and procedures for monitoring and 55688  
evaluating the effectiveness of the programs and services financed 55689  
with grant money, the enhancement of the use of local facilities 55690  
and services, and the adequacy of the supervision and treatment 55691  
provided to juveniles by those programs and services. 55692

(E)(1) Three months prior to the implementation of the felony delinquent care and custody program described in section 5139.43 of the Revised Code, each county that is entitled to a grant under this section shall receive its grant money for the fiscal year or the remainder of its grant money for the fiscal year, other than any grant money to which it is entitled and that is set aside by the department of youth services for purposes of division (E)(2) of this section. The grant money so distributed shall be paid in a lump sum.

(2) During the first twelve months that the felony delinquent care and custody program described in section 5139.43 of the Revised Code is implemented in a county, any grant or the remainder of any grant to which a county is entitled and that is payable from the appropriation made to the department of youth services for community sanctions shall be distributed as follows:

(a) In the first quarter of the twelve-month period, the county shall receive one hundred per cent of the quarterly distribution.

(b) In the second quarter of the twelve-month period, the county shall receive seventy-five per cent of the quarterly distribution.

(c) In the third quarter of the twelve-month period, the county shall receive fifty per cent of the quarterly distribution.

(d) In the fourth quarter of the twelve-month period, the county shall receive twenty-five per cent of the quarterly distribution.

(3) Grant moneys received pursuant to divisions (E)(1) and (2) of this section shall be transmitted by the juvenile court of the recipient county to the county treasurer, shall be deposited by the county treasurer into the felony delinquent care and custody fund created pursuant to division ~~(C)~~(B)(1) of section

5139.43 of the Revised Code, and shall be used by the juvenile court in accordance with division ~~(C)~~(B)(2) of that section. The grant moneys shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs or services for delinquent children, unruly children, or juvenile traffic offenders.

(4) One year after the commencement of its operation of the felony delinquent care and custody program described in section 5139.43 of the Revised Code, the department shall not make any further grants under this section.

**Sec. 5139.34.** (A) Funds may be appropriated to the department of youth services for the purpose of granting state subsidies to counties. A county or the juvenile court that serves a county shall use state subsidies granted to the county pursuant to this section only in accordance with divisions ~~(C)~~(B)(2)(a) and (3)(a) of section 5139.43 of the Revised Code and the rules pertaining to the state subsidy funds that the department adopts pursuant to division ~~(E)~~(D) of section 5139.04 of the Revised Code. The department shall not grant financial assistance pursuant to this section for the provision of care and services for children in a ~~foster care placement~~ facility unless the facility has been certified, licensed, or approved by a state or national agency with certification, licensure, or approval authority, including, but not limited to, the department of job and family services, department of education, department of mental health, ~~or~~ department of mental retardation and developmental disabilities, or American Correctional Association. For the purposes of this section, ~~foster care placement~~ facilities do not include a state institution or a county or district children's home.



The department also shall not grant financial assistance 55755  
pursuant to this section for the provision of care and services 55756  
for children, including, but not limited to, care and services in 55757  
a detention facility, in another facility, or in out-of-home 55758  
placement, unless the minimum standards applicable to the care and 55759  
services that the department prescribes in rules adopted pursuant 55760  
to division ~~(E)~~(D) of section 5139.04 of the Revised Code have 55761  
been satisfied. 55762

(B) The department of youth services shall apply the 55763  
following formula to determine the amount of the annual grant that 55764  
each county is to receive pursuant to division (A) of this 55765  
section, subject to the appropriation for this purpose to the 55766  
department made by the general assembly: 55767

(1) Each county shall receive a basic annual grant of fifty 55768  
thousand dollars. 55769

(2) The sum of the basic annual grants provided under 55770  
division (B)(1) of this section shall be subtracted from the total 55771  
amount of funds appropriated to the department of youth services 55772  
for the purpose of making grants pursuant to division (A) of this 55773  
section to determine the remaining portion of the funds 55774  
appropriated. The remaining portion of the funds appropriated 55775  
shall be distributed on a per capita basis to each county that has 55776  
a population of more than twenty-five thousand for that portion of 55777  
the population of the county that exceeds twenty-five thousand. 55778

(C)(1) Prior to a county's receipt of an annual grant 55779  
pursuant to this section, the juvenile court that serves the 55780  
county shall prepare, submit, and file in accordance with division 55781  
~~(C)~~(B)(3)(a) of section 5139.43 of the Revised Code an annual 55782  
grant agreement and application for funding that is for the 55783  
combined purposes of, and that satisfies the requirements of, this 55784  
section and section 5139.43 of the Revised Code. In addition to 55785

the subject matters described in division ~~(C)~~(B)(3)(a) of section 55786  
5139.43 of the Revised Code or in the rules that the department 55787  
adopts to implement that division, the annual grant agreement and 55788  
application for funding shall address fiscal accountability and 55789  
performance matters pertaining to the programs, care, and services 55790  
that are specified in the agreement and application and for which 55791  
state subsidy funds granted pursuant to this section will be used. 55792

(2) The county treasurer of each county that receives an 55793  
annual grant pursuant to this section shall deposit the state 55794  
subsidy funds so received into the county's felony delinquent care 55795  
and custody fund created pursuant to division ~~(C)~~(B)(1) of section 55796  
5139.43 of the Revised Code. Subject to exceptions prescribed in 55797  
section 5139.43 of the Revised Code that may apply to the 55798  
disbursement, the department shall disburse the state subsidy 55799  
funds to which ~~each county is entitled as follows:~~ 55800

~~(a) Except as provided in division (C)(2)(b) of this section,~~ 55801  
~~the department shall disburse the state subsidy funds to which a~~ 55802  
~~county is entitled in a lump sum payment that shall be made in~~ 55803  
~~July of each calendar year.~~ 55804

~~(b) In the case of state subsidy funds to which a county is~~ 55805  
~~entitled for fiscal year 1998, the department shall disburse the~~ 55806  
~~state subsidy funds to the county in two distinct payments in~~ 55807  
~~accordance with this division. The department shall disburse~~ 55808  
~~seventy five per cent of those state subsidy funds to the county~~ 55809  
~~in July 1997. After the department reviews and reconciles the~~ 55810  
~~applicable reports that the juvenile court of the county is~~ 55811  
~~required to prepare and submit to the department pursuant to~~ 55812  
~~section 5139.43 of the Revised Code, the department shall disburse~~ 55813  
~~to the county in October 1997, the remainder of the state subsidy~~ 55814  
~~funds to which the county is entitled.~~ 55815

(3) Upon an order of the juvenile court that serves a county 55816  
and subject to appropriation by the board of county commissioners 55817

of that county, a county treasurer shall disburse from the 55818  
county's felony delinquent care and custody fund the state subsidy 55819  
funds granted to the county pursuant to this section for use only 55820  
in accordance with this section, the applicable provisions of 55821  
section 5139.43 of the Revised Code, and the county's approved 55822  
annual grant agreement and application for funding. 55823

(4) The moneys in a county's felony delinquent care and 55824  
custody fund that represent state subsidy funds granted pursuant 55825  
to this section are subject to appropriation by the board of 55826  
county commissioners of the county; shall be disbursed by the 55827  
county treasurer as required by division (C)(3) of this section; 55828  
shall be used in the manners referred to in division (C)(3) of 55829  
this section; shall not revert to the county general fund at the 55830  
end of any fiscal year; shall carry over in the felony delinquent 55831  
care and custody fund from the end of any fiscal year to the next 55832  
fiscal year; shall be in addition to, and shall not be used to 55833  
reduce, any usual annual increase in county funding that the 55834  
juvenile court is eligible to receive or the current level of 55835  
county funding of the juvenile court and of any programs, care, or 55836  
services for alleged or adjudicated delinquent children, unruly 55837  
children, or juvenile traffic offenders or for children who are at 55838  
risk of becoming delinquent children, unruly children, or juvenile 55839  
traffic offenders; and shall not be used to pay for the care and 55840  
custody of felony delinquents who are in the care and custody of an 55841  
institution pursuant to a commitment, recommitment, or revocation 55842  
of a release on parole by the juvenile court of that county or who 55843  
are in the care and custody of a community corrections facility 55844  
pursuant to a placement by the department with the consent of the 55845  
juvenile court as described in division (E) of section 5139.36 of 55846  
the Revised Code. 55847

(5) As a condition of the continued receipt of state subsidy 55848  
funds pursuant to this section, each county and the juvenile court 55849

that serves each county that receives an annual grant pursuant to 55850  
this section shall comply with divisions ~~(C)~~(B)(3)(b), (c), and 55851  
(d) of section 5139.43 of the Revised Code. 55852

**Sec. 5139.36.** (A) In accordance with this section and the 55853  
rules adopted under it and from funds appropriated to the 55854  
department of youth services for the purposes of this section, the 55855  
department shall make grants that provide financial resources to 55856  
operate community corrections facilities for felony delinquents. 55857

(B)(1) Each community corrections facility that intends to 55858  
seek a grant under this section shall file an application with the 55859  
department of youth services at the time and in accordance with 55860  
the procedures that the department shall establish by rules 55861  
adopted in accordance with Chapter 119. of the Revised Code. In 55862  
addition to other items required to be included in the 55863  
application, a plan that satisfies both of the following shall be 55864  
included: 55865

(a) It reduces the number of felony delinquents committed to 55866  
the department from the county or counties associated with the 55867  
community corrections facility. 55868

(b) It ensures equal access for minority felony delinquents 55869  
to the programs and services for which a potential grant would be 55870  
used. 55871

(2) The department of youth services shall review each 55872  
application submitted pursuant to division (B)(1) of this section 55873  
to determine whether the plan described in that division, the 55874  
community corrections facility, and the application comply with 55875  
this section and the rules adopted under it. 55876

(C) To be eligible for a grant under this section and for 55877  
continued receipt of moneys comprising a grant under this section, 55878  
a community corrections facility shall satisfy at least all of the 55879

following requirements: 55880

(1) Be constructed, reconstructed, improved, or financed by 55881  
the Ohio building authority pursuant to section 307.021 of the 55882  
Revised Code and Chapter 152. of the Revised Code for the use of 55883  
the department of youth services and be designated as a community 55884  
corrections facility; 55885

(2) Have written standardized criteria governing the types of 55886  
felony delinquents that are eligible for the programs and services 55887  
provided by the facility; 55888

(3) Have a written standardized intake screening process and 55889  
an intake committee that at least performs both of the following 55890  
tasks: 55891

(a) Screens all eligible felony delinquents who are being 55892  
considered for admission to the facility in lieu of commitment to 55893  
the department; 55894

(b) Notifies, within ten days after the date of the referral 55895  
of a felony delinquent to the facility, the committing court 55896  
whether the felony delinquent will be admitted to the facility. 55897

(4) Comply with all applicable fiscal and program rules that 55898  
the department adopts in accordance with Chapter 119. of the 55899  
Revised Code and demonstrate that felony delinquents served by the 55900  
facility have been or will be diverted from a commitment to the 55901  
department. 55902

(D) The department of youth services shall determine the 55903  
method of distribution of the funds appropriated for grants under 55904  
this section to community corrections facilities. 55905

(E) ~~With the consent of a committing court and of a community~~ 55906  
~~corrections facility that has received a grant under this section,~~ 55907  
~~the department of youth services may place in that facility a~~ 55908  
~~felony delinquent who has been committed to the department. During~~ 55909

~~the period in which the felony delinquent is in that facility, the~~ 55910  
~~felony delinquent~~ (1) The department of youth services shall adopt 55911  
rules in accordance with Chapter 119. of the Revised Code to 55912  
establish the minimum occupancy threshold of community corrections 55913  
facilities. 55914

(2) The department may make referrals for the placement of 55915  
children in its custody to a community corrections facility if the 55916  
community corrections facility is not meeting the minimum 55917  
occupancy threshold established by the department. At least 55918  
forty-five days prior to the referral of a child, the department 55919  
shall notify the committing court of its intent to place the child 55920  
in a community corrections facility. The court shall have thirty 55921  
days after the receipt of the notice to approve or disapprove the 55922  
placement. If the court does not respond to the notice of the 55923  
placement within that thirty-day period, the department shall 55924  
proceed with the placement and debit the county in accordance with 55925  
sections 5139.41 to 5139.45 of the Revised Code. A child placed in 55926  
a community corrections facility pursuant to this division shall 55927  
remain in the legal custody of the department of youth services 55928  
during the period in which the child is in the community 55929  
corrections facility. 55930

(3) Counties that are not associated with a community 55931  
corrections facility may refer children to a community corrections 55932  
facility with the consent of the facility. The department of youth 55933  
services shall debit the county that makes the referral in 55934  
accordance with sections 5139.41 to 5139.45 of the Revised Code. 55935

(F) If the board or other governing body of a community 55936  
corrections facility establishes an advisory board, the board or 55937  
other governing authority of the community corrections facility 55938  
shall reimburse the members of the advisory board for their actual 55939  
and necessary expenses incurred in the performance of their 55940  
official duties on the advisory board. The members of advisory 55941

boards shall serve without compensation. 55942

~~Sec. 5139.41. On and after January 1, 1995, the~~ The 55943  
appropriation made to the department of youth services for care 55944  
and custody of felony delinquents shall be expended in accordance 55945  
with ~~a formula~~ the following procedure that the department shall 55946  
~~develop~~ use for each year of a biennium. The ~~formula~~ procedure 55947  
shall be consistent with sections 5139.41 to ~~5139.45~~ 5139.43 of 55948  
the Revised Code and shall be developed in accordance with the 55949  
following guidelines: 55950

~~(A) The department shall set aside at least three per cent~~ 55951  
~~but not more than five per cent of the appropriation for purposes~~ 55952  
~~of funding the contingency program described in section 5139.45 of~~ 55953  
~~the Revised Code and of use in accordance with that section.~~ 55954

~~(B)(1) After setting aside the amount described in division~~ 55955  
~~(A) of this section, the department shall set aside twenty five~~ 55956  
~~per cent of the remainder of the appropriation and use that amount~~ 55957  
~~for the purpose described in division (B)(2) of this section and~~ 55958  
~~to pay certain of the operational costs associated with, and to~~ 55959  
~~provide cash flow for, the following:~~ 55960

~~(a) Institutions;~~ 55961

~~(b) The diagnosis, care, or treatment of felony delinquents~~ 55962  
~~at institutions, facilities, or centers pursuant to contracts~~ 55963  
~~entered into under section 5139.08 of the Revised Code;~~ 55964

~~(c) Community corrections facilities constructed,~~ 55965  
~~reconstructed, improved, or financed as described in section~~ 55966  
~~5139.36 of the Revised Code for the purpose of providing~~ 55967  
~~alternative placement and services for felony delinquents who have~~ 55968  
~~been diverted from care and custody in institutions.~~ 55969

~~(2) The department may use a portion of the twenty five per~~ 55970  
~~cent of the remainder of the appropriation set aside pursuant to~~ 55971

~~division (B)(1) of this section for administrative expenses 55972  
incurred by the department in connection with the felony 55973  
delinquent care and custody program described in section 5139.43 55974  
of the Revised Code and the associated contingency program 55975  
described in section 5139.45 of the Revised Code. 55976~~

~~(C) After setting aside the amounts described in divisions 55977  
(A) and (B)(1) of this section, the department shall set aside the 55978  
amount of the appropriation that is equal to twenty five per cent 55979  
of the amount that is calculated by multiplying the per diem cost 55980  
for the care and custody of felony delinquents, as determined 55981  
pursuant to division (D) of section 5139.42 of the Revised Code, 55982  
by the number of bed days that the department projects for 55983  
occupancy in community corrections facilities described in 55984  
division (B)(1)(c) of this section. The department shall use the 55985  
amount of the appropriation that is set aside pursuant to this 55986  
division to pay the percentage of the per diem cost for the care 55987  
and custody of felony delinquents who are in the care and custody 55988  
of community corrections facilities described in division 55989  
(B)(1)(c) of this section for which the department is responsible 55990  
under sections 5139.41 to 5139.45 of the Revised Code. 55991~~

~~(D) After setting aside the amounts described in divisions 55992  
(A) to (C) of this section, the department shall set aside the 55993  
amount of the appropriation that is necessary to pay seventy five 55994  
per cent of the per diem cost of public safety beds and shall use 55995  
that amount for the purpose of paying that per diem cost. 55996~~

~~(E) After setting aside the amounts described in divisions 55997  
(A) to (D) of this section, the department shall use the remainder 55998  
of the appropriation in connection with the felony delinquent care 55999  
and custody program described in section 5139.43 of the Revised 56000  
Code, except that, for fiscal year 2002 and fiscal year 2003 and 56001  
only for those two fiscal years, the total number of beds 56002  
available to all counties via public safety beds and county 56003~~



~~allocations shall not be less than the total beds used by all the 56004  
counties during fiscal year 2000 funded by care and custody 56005  
chargebacks (Line Item 401) and as public safety beds. 56006~~

~~(F) If the department's appropriation for a fiscal year is 56007  
subsequently revised by law or its expenditures ordered to be 56008  
reduced by executive order under section 126.05 of the Revised 56009  
Code, the department may adjust the amounts described in divisions 56010  
(A) to (E) of this section in a manner consistent with the 56011  
revision or reduction. The line item appropriation for the care 56012  
and custody of felony delinquents shall provide funding for 56013  
operational costs for the following: 56014~~

~~(1) Institutions and the diagnosis, care, or treatment of 56015  
felony delinquents at facilities pursuant to contracts entered 56016  
into under section 5139.08 of the Revised Code; 56017~~

~~(2) Community corrections facilities constructed, 56018  
reconstructed, improved, or financed as described in section 56019  
5139.36 of the Revised Code for the purpose of providing 56020  
alternative placement and services for felony delinquents who have 56021  
been diverted from care and custody in institutions; 56022~~

~~(3) County juvenile courts that administer programs and 56023  
services for prevention, early intervention, diversion, treatment, 56024  
and rehabilitation services and programs that are provided for 56025  
alleged or adjudicated unruly or delinquent children or for 56026  
children who are at risk of becoming unruly or delinquent 56027  
children; 56028~~

~~(4) Administrative expenses the department incurs in 56029  
connection with the felony delinquent care and custody programs 56030  
described in section 5139.43 of the Revised Code. 56031~~

~~(B) From the appropriated line item for the care and custody 56032  
of felony delinquents, the department, with the advice of the 56033  
RECLAIM advisory committee established under section 5139.44 of 56034~~

the Revised Code, shall allocate annual operational funds for 56035  
county juvenile programs, institutional care and custody, 56036  
community corrections facilities care and custody, and 56037  
administrative expenses incurred by the department associated with 56038  
felony delinquent care and custody programs. The department, with 56039  
the advice of the RECLAIM advisory committee, shall adjust these 56040  
allocations, when modifications to this line item are made by 56041  
legislative or executive action. 56042

(C) The department shall divide county juvenile program 56043  
allocations among county juvenile courts that administer programs 56044  
and services for prevention, early intervention, diversion, 56045  
treatment, and rehabilitation that are provided for alleged or 56046  
adjudicated unruly or delinquent children or for children who are 56047  
at risk of becoming unruly or delinquent children. The department 56048  
shall base funding on the county's previous year's ratio of the 56049  
department's institutional and community correctional facilities 56050  
commitments to that county's four year average of felony 56051  
adjudications, divided by statewide ratios of commitments to 56052  
felony adjudications, as specified in the following formula: 56053

(1) The department shall give to each county a proportional 56054  
allocation of commitment credits. The proportional allocation of 56055  
commitment credits shall be calculated by the following 56056  
procedures: 56057

(a) The department shall determine for each county and for 56058  
the state a four year average of felony adjudications. 56059

(b) The department shall determine for each county and for 56060  
the state the number of charged bed days, for both the department 56061  
and community correctional facilities, from the previous year. 56062

(c) The department shall divide the statewide total number of 56063  
charged bed days by the statewide total number of felony 56064  
adjudications, which quotient shall then be multiplied by a factor 56065

determined by the department. 56066

(d) The department shall calculate the county's allocation of credits by multiplying the number of adjudications for each court by the result determined pursuant to division (C)(1)(c) of this section. 56067  
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(2) The department shall subtract from the allocation determined pursuant to division (C)(1) of this section a credit for every chargeable bed day a youth stays in a department institution and two-thirds of credit for every chargeable bed day a youth stays in a community correctional facility. At the end of the year, the department shall divide the amount of remaining credits of that county's allocation by the total number of remaining credits to all counties, to determine the county's percentage, which shall then be applied to the total county allocation to determine the county's payment for the fiscal year. 56071  
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(3) The department shall pay counties three times during the fiscal year to allow for credit reporting and audit adjustments, and modifications to the appropriated line item for the care and custody of felony delinquents, as described in this section. The department shall pay fifty per cent of the payment by the fifteenth of July of each fiscal year, twenty-five per cent by the fifteenth of January of that fiscal year, and twenty-five per cent of the payment by the fifteenth of June of that fiscal year. 56081  
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(D) In fiscal year 2004, the payment of county juvenile programs shall be based on the following procedure: 56089  
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(1) The department shall divide the funding earned by each court in fiscal year 2003 by the aggregate funding of all courts, resulting in a percentage. 56091  
56092  
56093

(2) The department shall apply the percentage determined under division (D)(1) of this section to the total county juvenile program allocation for fiscal year 2004 to determine each court's 56094  
56095  
56096

total payment. 56097

(3) The department shall make payments in accordance with the 56098  
schedule established in division (C)(3) of this section. 56099

**Sec. 5139.43.** (A) The department of youth services shall 56100  
operate a felony delinquent care and custody program ~~with the~~ 56101  
~~remainder of the appropriation described in division (E) of~~ 56102  
~~section 5139.41 of the Revised Code. The program that shall be~~ 56103  
operated in accordance with the formula developed pursuant to 56104  
~~sections section 5139.41 and 5139.42 of the Revised Code, subject~~ 56105  
to the conditions specified in this section, ~~and in conjunction~~ 56106  
~~with the contingency program described in section 5139.45 of the~~ 56107  
~~Revised Code.~~ 56108

(B)(1) ~~The department of youth services annually shall~~ 56109  
~~allocate to each county a portion of the remainder of the~~ 56110  
~~appropriation described in division (E) of section 5139.41 of the~~ 56111  
~~Revised Code. The portion to be allocated to each county shall be~~ 56112  
~~determined by multiplying the county's percentage determined under~~ 56113  
~~division (E) of section 5139.42 of the Revised Code by the amount~~ 56114  
~~of that remainder. The department shall divide the portion to be~~ 56115  
~~allocated to each county by twelve or, if in a particular fiscal~~ 56116  
~~year the felony delinquent care and custody program is in effect~~ 56117  
~~in a county less than twelve months, by the number of months the~~ 56118  
~~program is in effect in that county to determine the monthly~~ 56119  
~~allocation to that county.~~ 56120

~~(2)(a) Except as provided in divisions (B)(2)(b) and (E) of~~ 56121  
~~this section, the department shall reduce the monthly allocation~~ 56122  
~~for each fiscal year to each county as determined under division~~ 56123  
~~(B)(1) of this section by both of the following:~~ 56124

~~(i) Seventy five per cent of the amount determined by~~ 56125  
~~multiplying the per diem cost for the care and custody of felony~~ 56126  
~~delinquents, as determined pursuant to division (D) of section~~ 56127

~~5139.42 of the Revised Code, by the number of felony delinquents 56128  
who have been adjudicated delinquent children and, except as 56129  
otherwise provided in divisions (B)(2)(a) and (3) of this section, 56130  
who are in the care and custody of an institution pursuant to a 56131  
commitment, recommitment, or revocation of a release by the 56132  
juvenile court of that county; 56133~~

~~(ii) Fifty per cent of the amount determined by multiplying 56134  
the per diem cost for the care and custody of felony delinquents, 56135  
as determined pursuant to division (D) of section 5139.42 of the 56136  
Revised Code, by the number of felony delinquents who have been 56137  
adjudicated delinquent children and, except as otherwise provided 56138  
in division (B)(3) of this section, who are in the care and 56139  
custody of a community corrections facility pursuant to a 56140  
placement by the department with the consent of the juvenile court 56141  
of that county as described in division (E) of section 5139.36 of 56142  
the Revised Code. 56143~~

~~Public safety beds shall not be included in the number of 56144  
felony delinquents who have been adjudicated delinquent children 56145  
by a juvenile court in making the seventy five per cent reduction 56146  
described in division (B)(2)(a)(i) of this section. The department 56147  
shall bear the care and custody costs associated with public 56148  
safety beds. 56149~~

~~(b) If a county has exhausted its current and future monthly 56150  
allocations for the current fiscal year as determined under 56151  
division (B)(1) of this section, the department shall bear the 56152  
remainder of the amounts calculated under divisions (B)(2)(a)(i) 56153  
and (ii) of this section for the care and custody of felony 56154  
delinquents who are in the care and custody of an institution 56155  
pursuant to a commitment, recommitment, or revocation of a release 56156  
or in the care and custody of a community corrections facility by 56157  
debiting, in accordance with division (C)(2) of section 5139.45 of 56158  
the Revised Code, the amount of the appropriation for care and 56159~~

~~eustody of felony delinquents that was set aside for the 56160  
contingency program pursuant to division (A) of section 5139.41 of 56161  
the Revised Code. 56162~~

~~(3)(a) Subject to divisions (B)(2)(b) and (4) and (C)(3)(b) 56163  
and (c) of this section and subject to the special provisions of 56164  
division (B)(3)(b) of this section pertaining to monthly 56165  
allocations under divisions (B)(1) and (2)(a) of this section for 56166  
the month of June, after the application of division (B)(2)(a) of 56167  
this section and on or before the fifteenth day of the following 56168  
month, the department shall disburse to the juvenile court of each 56169  
county the remainder of the monthly allocation of that county as 56170  
determined pursuant to divisions (B)(1) and (2)(a) of this 56171  
section. 56172~~

~~(b)(i) For the monthly allocation for the month of June of 56173  
each fiscal year, the department shall estimate for each county 56174  
the number of felony delinquents described in divisions 56175  
(B)(2)(a)(i) and (ii) of this section rather than use the actual 56176  
number of those felony delinquents, shall use the estimated number 56177  
of those felony delinquents in making the seventy five per cent 56178  
and fifty per cent reductions described in those divisions, and 56179  
shall encumber the remainder of the estimated monthly allocation 56180  
of each county for the month of June, as determined pursuant to 56181  
divisions (B)(1), (2)(a), and (3)(b)(i) of this section, for 56182  
disbursement in the month of July of the next fiscal year in 56183  
accordance with division (B)(3)(b)(ii) of this section. If the 56184  
total of the seventy five per cent and fifty per cent reductions 56185  
described in division (B)(2)(a) of this section exceeds the 56186  
estimated monthly allocation of a county for the month of June as 56187  
so determined, the department may cover the amount of the excess 56188  
by debiting, in accordance with division (C)(2) of section 5139.45 56189  
of the Revised Code, the amount of the appropriation for care and 56190  
eustody of felony delinquents that was set aside for the 56191~~

~~contingency program pursuant to division (A) of section 5139.41 of the Revised Code.~~ 56192  
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~~(ii) In the month of July of each new fiscal year, the department shall reconcile for each county the estimated reductions that occurred pursuant to divisions (B)(2)(a) and (3)(b)(i) of this section and the reductions that should have occurred pursuant to division (B)(2)(a) of this section by using the actual number of felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section for the month of June of the prior fiscal year. After that reconciliation occurs, subject to divisions (B)(2)(b) and (4) and (C)(3)(b) and (c) of this section, the department shall disburse to each county the remainder of its monthly allocation for the month of June of the prior fiscal year as adjusted pursuant to the reconciliation and division (B)(3)(b)(ii) of this section.~~ 56194  
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~~In connection with the adjustments in the monthly allocations for the month of June of the prior fiscal year, if the encumbered monthly allocations of one or more counties for that month exceed or are less than the monthly allocations for that month to which those counties are entitled under divisions (B)(1) and (2)(a) of this section by using the actual number of felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section rather than the estimated number of those felony delinquents, the department may make the necessary adjustments in the monthly allocations of those counties for the month of June of the prior fiscal year within the total of the moneys for monthly allocations for that month that were encumbered for all of the counties. If that total amount is insufficient to make the requisite monthly allocations for that month to all counties in accordance with divisions (B)(1) and (2)(a) of this section, the department shall cover the insufficiency by debiting, in accordance with division (C)(2) of section 5139.45 of the Revised Code, the amount of the~~ 56207  
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~~appropriation for care and custody of felony delinquents that was 56224  
set aside for the contingency program pursuant to division (A) of 56225  
section 5139.41 of the Revised Code. 56226~~

~~(4) Notwithstanding the general disbursement requirements of 56227  
division (B)(3)(a) and (b)(ii) of this section, if a juvenile 56228  
court fails to comply with division (C)(3)(d) of this section and 56229  
the department is not able to reconcile fiscal accounting as a 56230  
consequence of that failure, the department is not required to 56231  
make any disbursement in accordance with division (B)(3)(a) or 56232  
(b)(ii) of this section to the juvenile court until it complies 56233  
with division (C)(3)(d) of this section. 56234~~

~~(C)(1) Each juvenile court shall use the moneys disbursed to 56235  
it by the department of youth services pursuant to division (B) of 56236  
this section 5139.41 of the Revised Code in accordance with the 56237  
applicable provisions of division ~~(C)~~(B)(2) of this section and 56238  
shall transmit the moneys to the county treasurer for deposit in 56239  
accordance with this division. The county treasurer shall create 56240  
in the county treasury a fund that shall be known as the felony 56241  
delinquent care and custody fund and shall deposit in that fund 56242  
the moneys disbursed to the juvenile court pursuant to division 56243  
(B) of ~~this~~ section 5139.41 of the Revised Code. The county 56244  
treasurer also shall deposit into that fund the state subsidy 56245  
funds granted to the county pursuant to section 5139.34 of the 56246  
Revised Code. The moneys disbursed to the juvenile court pursuant 56247  
to division (B) of ~~this~~ section 5139.41 of the Revised Code and 56248  
deposited pursuant to this division in the felony delinquent care 56249  
and custody fund shall not be commingled with any other county 56250  
funds except state subsidy funds granted to the county pursuant to 56251  
section 5139.34 of the Revised Code; shall not be used for any 56252  
capital construction projects; upon an order of the juvenile court 56253  
and subject to appropriation by the board of county commissioners, 56254  
shall be disbursed to the juvenile court for use in accordance 56255~~



with the applicable provisions of division ~~(C)~~(B)(2) of this 56256  
section; shall not revert to the county general fund at the end of 56257  
any fiscal year; and shall carry over in the felony delinquent 56258  
care and custody fund from the end of any fiscal year to the next 56259  
fiscal year. The moneys disbursed to the juvenile court pursuant 56260  
to division (B) of ~~this~~ section 5139.41 of the Revised Code and 56261  
deposited pursuant to this division in the felony delinquent care 56262  
and custody fund shall be in addition to, and shall not be used to 56263  
reduce, any usual annual increase in county funding that the 56264  
juvenile court is eligible to receive or the current level of 56265  
county funding of the juvenile court and of any programs or 56266  
services for delinquent children, unruly children, or juvenile 56267  
traffic offenders. 56268

(2)(a) A county and the juvenile court that serves the county 56269  
shall use the moneys in its felony delinquent care and custody 56270  
fund in accordance with rules that the department of youth 56271  
services adopts pursuant to division ~~(E)~~(D) of section 5139.04 of 56272  
the Revised Code and as follows: 56273

(i) The moneys in the fund that represent state subsidy funds 56274  
granted to the county pursuant to section 5139.34 of the Revised 56275  
Code shall be used to aid in the support of prevention, early 56276  
intervention, diversion, treatment, and rehabilitation programs 56277  
that are provided for alleged or adjudicated unruly children or 56278  
delinquent children or for children who are at risk of becoming 56279  
unruly children or delinquent children. The county shall not use 56280  
for capital improvements more than fifteen per cent of the moneys 56281  
in the fund that represent the applicable annual grant of those 56282  
state subsidy funds. 56283

(ii) The moneys in the fund that were disbursed to the 56284  
juvenile court pursuant to division (B) of ~~this~~ section 5139.41 of 56285  
the Revised Code and deposited pursuant to division ~~(C)~~(B)(1) of 56286  
this section in the fund shall be used to provide programs and 56287

services for the training, treatment, or rehabilitation of felony 56288  
delinquents that are alternatives to their commitment to the 56289  
department, including, but not limited to, community residential 56290  
programs, day treatment centers, services within the home, and 56291  
electronic monitoring, and shall be used in connection with 56292  
training, treatment, rehabilitation, early intervention, or other 56293  
programs or services for any delinquent child, unruly child, or 56294  
juvenile traffic offender who is under the jurisdiction of the 56295  
juvenile court. ~~For purposes of division (C)(2)(a)(ii) of this 56296~~  
~~section, a delinquent child includes a child who is so adjudicated 56297~~  
~~for the commission of an act that if committed by an adult would 56298~~  
~~be a misdemeanor or felony. 56299~~

~~If, during the previous state fiscal year, the county did not 56300~~  
~~exceed in any month its monthly allocation as determined pursuant 56301~~  
~~to division (B)(1) of this section in connection with felony 56302~~  
~~delinquents described in divisions (B)(2)(a)(i) and (ii) of this 56303~~  
~~section, the moneys in the fund that were disbursed to the 56304~~  
~~juvenile court pursuant to division (B) of this section and 56305~~  
~~deposited pursuant to division (C)(1) of this section in the The 56306~~  
fund also may be used for prevention, early intervention, 56307  
diversion, treatment, and rehabilitation programs that are 56308  
provided for alleged or adjudicated unruly children, delinquent 56309  
children, or juvenile traffic offenders or for children who are at 56310  
risk of becoming unruly children, delinquent children, or juvenile 56311  
traffic offenders. Consistent with division ~~(C)~~(B)(1) of this 56312  
section, a county and the juvenile court of a county shall not use 56313  
any of those moneys for capital construction projects. 56314

(iii) The county and the juvenile court that serves the 56315  
county may not use moneys in the fund for the provision of care 56316  
and services for children, including, but not limited to, care and 56317  
services in a detention facility, in another facility, or in 56318  
out-of-home placement, unless the minimum standards that apply to 56319

the care and services and that the department prescribes in rules 56320  
adopted pursuant to division ~~(E)~~(D) of section 5139.04 of the 56321  
Revised Code have been satisfied. 56322

(b) Each juvenile court shall comply with division 56323  
~~(C)~~(B)(3)(d) of this section as implemented by the department. ~~If~~ 56324  
~~a juvenile court fails to comply with that division and the~~ 56325  
~~department is not able to reconcile fiscal accounting as a~~ 56326  
~~consequence of the failure, the provisions of division (B)(4) of~~ 56327  
~~this section shall apply.~~ 56328

(3) In accordance with rules adopted by the department 56329  
pursuant to division ~~(E)~~(D) of section 5139.04 of the Revised 56330  
Code, each juvenile court and the county served by that juvenile 56331  
court shall do all of the following that apply: 56332

(a) The juvenile court shall prepare an annual grant 56333  
agreement and application for funding that satisfies the 56334  
requirements of this section and section 5139.34 of the Revised 56335  
Code and that pertains to the use, upon an order of the juvenile 56336  
court and subject to appropriation by the board of county 56337  
commissioners, of the moneys in its felony delinquent care and 56338  
custody fund for specified programs, care, and services as 56339  
described in division ~~(C)~~(B)(2)(a) of this section, shall submit 56340  
that agreement and application to the county family and children 56341  
first council, the regional family and children first council, or 56342  
the local intersystem services to children cluster as described in 56343  
sections 121.37 and 121.38 of the Revised Code, whichever is 56344  
applicable, and shall file that agreement and application with the 56345  
department for its approval. The annual grant agreement and 56346  
application for funding shall include a method of ensuring equal 56347  
access for minority youth to the programs, care, and services 56348  
specified in it. 56349

The department may approve an annual grant agreement and 56350  
application for funding only if the juvenile court involved has 56351

complied with the preparation, submission, and filing requirements 56352  
described in division ~~(C)~~(B)(3)(a) of this section. If the 56353  
juvenile court complies with those requirements and the department 56354  
approves that agreement and application, the juvenile court and 56355  
the county served by the juvenile court may expend the state 56356  
subsidy funds granted to the county pursuant to section 5139.34 of 56357  
the Revised Code only in accordance with division ~~(C)~~(B)(2)(a) of 56358  
this section, the rules pertaining to state subsidy funds that the 56359  
department adopts pursuant to division ~~(E)~~(D) of section 5139.04 56360  
of the Revised Code, and the approved agreement and application. 56361

(b) By the thirty-first day of August of each year, the 56362  
juvenile court shall file with the department a report that 56363  
contains all of the statistical and other information for each 56364  
month of the prior state fiscal year ~~that will permit the~~ 56365  
~~department to prepare the report described in division (D) of this~~ 56366  
~~section and the annual report described in division (H) of section~~ 56367  
~~5139.04 of the Revised Code.~~ If the juvenile court fails to file 56368  
the report required by division ~~(C)~~(B)(3)(b) of this section by 56369  
the thirty-first day of August of any year, the department shall 56370  
not disburse any payment of state subsidy funds to which the 56371  
county otherwise is entitled pursuant to section 5139.34 of the 56372  
Revised Code and shall not disburse pursuant to division (B)~~(3)(a)~~ 56373  
~~or (b)(ii) of this section the remainder of 5139.41 of the Revised~~ 56374  
~~Code~~ the applicable ~~monthly~~ allocation ~~of the county~~ until the 56375  
juvenile court fully complies with division ~~(C)~~(B)(3)(b) of this 56376  
section. 56377

(c) If the department requires the juvenile court to prepare 56378  
monthly statistical reports ~~for use under section 5139.42 of the~~ 56379  
~~Revised Code~~ and to submit the reports on forms provided by the 56380  
department, the juvenile court shall file those reports with the 56381  
department on the forms so provided. If the juvenile court fails 56382  
to prepare and submit those monthly statistical reports within the 56383

department's timelines, the department shall not disburse any 56384  
payment of state subsidy funds to which the county otherwise is 56385  
entitled pursuant to section 5139.34 of the Revised Code and shall 56386  
not disburse pursuant to division (B)~~(3)(a)~~ or ~~(b)(ii)~~ of ~~this~~ 56387  
section ~~the remainder of 5139.41 of the Revised Code~~ the 56388  
applicable ~~monthly~~ allocation ~~of the county~~ until the juvenile 56389  
court fully complies with division ~~(C)~~(B)(3)(c) of this section. 56390  
If the juvenile court fails to prepare and submit those monthly 56391  
statistical reports within one hundred eighty days of the date the 56392  
department establishes for their submission, the department shall 56393  
not disburse any payment of state subsidy funds to which the 56394  
county otherwise is entitled pursuant to section 5139.34 of the 56395  
Revised Code and shall not disburse pursuant to division (B)~~(3)(a)~~ 56396  
~~or (b)(ii)~~ of ~~this~~ section ~~the remainder of 5139.41 of the Revised~~ 56397  
~~Code~~ the applicable ~~monthly~~ allocation ~~of the county~~, and the 56398  
state subsidy funds and the remainder of the applicable ~~monthly~~ 56399  
allocation shall revert to the department. If a juvenile court 56400  
states in a monthly statistical report that the juvenile court 56401  
adjudicated within a state fiscal year five hundred or more 56402  
children to be delinquent children for committing acts that would 56403  
be felonies if committed by adults and if the department 56404  
determines that the data in the report may be inaccurate, the 56405  
juvenile court shall have an independent auditor or other 56406  
qualified entity certify the accuracy of the data on a date 56407  
determined by the department. 56408

(d) If the department requires the juvenile court and the 56409  
county to participate in a fiscal monitoring program or another 56410  
monitoring program that is conducted by the department to ensure 56411  
compliance by the juvenile court and the county with division 56412  
~~(C)~~(B) of this section, the juvenile court and the county shall 56413  
participate in the program and fully comply with any guidelines 56414  
for the performance of audits adopted by the department pursuant 56415  
to that program and all requests made by the department pursuant 56416

to that program for information necessary to reconcile fiscal 56417  
accounting. If an audit that is performed pursuant to a fiscal 56418  
monitoring program or another monitoring program described in this 56419  
division determines that the juvenile court or the county used 56420  
moneys in the county's felony delinquent care and custody fund for 56421  
expenses that are not authorized under division ~~(C)~~(B) of this 56422  
section, within forty-five days after the department notifies the 56423  
county of the unauthorized expenditures, the county either shall 56424  
repay the amount of the unauthorized expenditures from the county 56425  
general revenue fund to the state's general revenue fund or shall 56426  
file a written appeal with the department. If an appeal is timely 56427  
filed, the director of the department shall render a decision on 56428  
the appeal and shall notify the appellant county or its juvenile 56429  
court of that decision within forty-five days after the date that 56430  
the appeal is filed. If the director denies an appeal, the 56431  
county's fiscal agent shall repay the amount of the unauthorized 56432  
expenditures from the county general revenue fund to the state's 56433  
general revenue fund within thirty days after receiving the 56434  
director's notification of the appeal decision. If the county 56435  
fails to make the repayment within that thirty-day period and if 56436  
the unauthorized expenditures pertain to moneys allocated under 56437  
sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code, the 56438  
department shall deduct the amount of the unauthorized 56439  
expenditures from the next ~~monthly~~ allocation of those moneys to 56440  
the county in accordance with this section or from the allocations 56441  
that otherwise would be made under those sections to the county 56442  
during the next state fiscal year in accordance with this section 56443  
and shall return that deducted amount to the state's general 56444  
revenue fund. If the county fails to make the repayment within 56445  
that thirty-day period and if the unauthorized expenditures 56446  
pertain to moneys granted pursuant to section 5139.34 of the 56447  
Revised Code, the department shall deduct the amount of the 56448  
unauthorized expenditures from the next annual grant to the county 56449

pursuant to that section and shall return ~~than~~ that deducted 56450  
amount to the state's general revenue fund. 56451

~~(D) On or prior to the first day of December of each year,~~ 56452  
~~the department of youth services shall submit to the joint~~ 56453  
~~legislative committee on juvenile corrections overcrowding a~~ 56454  
~~report that pertains to the operation of sections 5139.34 and~~ 56455  
~~5139.41 to 5139.45 of the Revised Code during the immediately~~ 56456  
~~preceding state fiscal year and that includes, but is not limited~~ 56457  
~~to, the following:~~ 56458

~~(1) A description of the programs, care, and services that~~ 56459  
~~were financed under those sections in each county;~~ 56460

~~(2) The number of felony delinquents, other delinquent~~ 56461  
~~children, unruly children, and juvenile traffic offenders served~~ 56462  
~~by the programs, care, and services in each county;~~ 56463

~~(3) The total number of children adjudicated in each juvenile~~ 56464  
~~court as felony delinquents;~~ 56465

~~(4) The total number of felony delinquents who were committed~~ 56466  
~~by the juvenile court of each county to the department and who~~ 56467  
~~were in the care and custody of an institution or a community~~ 56468  
~~corrections facility;~~ 56469

~~(5) A breakdown of the felony delinquents described in~~ 56470  
~~division (D)(4) of this section on the basis of the types and~~ 56471  
~~degrees of felonies committed, the ages of the felony delinquents~~ 56472  
~~at the time they committed the felonies, and the sex and race of~~ 56473  
~~the felony delinquents.~~ 56474

~~(E)~~(C) The determination of which county a reduction of the 56475  
monthly care and custody allocation will be charged against for a 56476  
particular youth shall be made as outlined below for all youths 56477  
who do not qualify as public safety beds. The determination of 56478  
which county a reduction of the monthly care and custody 56479  
allocation will be charged against shall be made as follows until 56480

each youth is released: 56481

(1) In the event of a commitment, the reduction shall be 56482  
charged against the committing county. 56483

(2) In the event of a recommitment, the reduction shall be 56484  
charged against the original committing county until the 56485  
expiration of the minimum period of institutionalization under the 56486  
original order of commitment or until the date on which the youth 56487  
is admitted to the department of youth services pursuant to the 56488  
order of recommitment, whichever is later. Reductions of the 56489  
~~monthly~~ allocation shall be charged against the county that 56490  
recommitted the youth after the minimum expiration date of the 56491  
original commitment. 56492

(3) In the event of a revocation of a release on parole, the 56493  
reduction shall be charged against the county that revokes the 56494  
youth's parole. 56495

(D) A juvenile court is not precluded by its allocation 56496  
amount for the care and custody of felony delinquents from 56497  
committing a felony delinquent to the department of youth services 56498  
for care and custody in an institution or a community corrections 56499  
facility when the juvenile court determines that the commitment is 56500  
appropriate. 56501

Sec. 5139.44. (A)(1) There is hereby created the RECLAIM 56502  
advisory committee that shall be composed of the following ten 56503  
members: 56504

(a) Two members shall be juvenile court judges appointed by 56505  
the Ohio association of juvenile and family court judges. 56506

(b) One member shall be the director of youth services or the 56507  
director's designee. 56508

(c) One member shall be the director of budget and management 56509  
or the director's designee. 56510



(d) One member shall be the director of the legislative service commission or the director's designee. 56511  
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(e) One member shall be a member of a senate committee dealing with finance or criminal justice issues appointed by the president of the senate. 56513  
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(f) One member shall be a member of a committee of the house of representatives dealing with finance or criminal justice issues appointed by the speaker of the house of representatives. 56516  
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(g) One member shall be a member of a board of county commissioners appointed by the county commissioners association of Ohio. 56519  
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(h) Two members shall be juvenile court administrators appointed by the Ohio association of juvenile and family court judges. 56522  
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(2) The members of the committee shall be appointed or designated within thirty days after the effective date of this section, and the director of youth services shall be notified of the names of the members. 56525  
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(3) Members described in divisions (A)(1)(a), (g), and (h) of this section shall serve for terms of two years and shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members described in divisions (A)(1)(b), (c), and (d) of this section shall serve as long as they hold the office described in that division. Members described in divisions (A)(1)(e) and (f) of this section shall serve for the duration of the session of the general assembly during which they were appointed, provided they continue to hold the office described in that division. The members described in divisions (A)(1)(a), (e), (f), (g), and (h) may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring 56529  
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prior to the expiration date of the term for which the member's 56542  
predecessor was appointed shall hold office as a member for the 56543  
remainder of that term. A member shall continue in office 56544  
subsequent to the expiration date of the member's term until the 56545  
member's successor takes office or until a period of sixty days 56546  
has elapsed, whichever occurs first. 56547

(4) Membership on the committee does not constitute the 56548  
holding of an incompatible public office or employment in 56549  
violation of any statutory or common law prohibition pertaining to 56550  
the simultaneous holding of more than one public office or 56551  
employment. Members of the committee are not disqualified from 56552  
holding by reason of that membership and do not forfeit because of 56553  
that membership their public office or employment that qualifies 56554  
them for membership on the committee notwithstanding any contrary 56555  
disqualification or forfeiture requirement under existing Revised 56556  
Code sections. 56557

(B) The director of youth services shall serve as an interim 56558  
chair of the RECLAIM advisory committee until the first meeting of 56559  
the committee. Upon receipt of the names of the members of the 56560  
committee, the director shall schedule the initial meeting of the 56561  
committee that shall take place at an appropriate location in 56562  
Columbus and occur not later than sixty days after the effective 56563  
date of this section. The director shall notify the members of the 56564  
committee of the time, date, and place of the meeting. At the 56565  
initial meeting, the committee shall organize itself by selecting 56566  
from among its members a chair, vice-chair, and secretary. The 56567  
committee shall meet at least once each quarter of the calendar 56568  
year but may meet more frequently at the call of the chair. 56569

(C) In addition to its functions with respect to the RECLAIM 56570  
program described in section 5139.41 of the Revised Code, the 56571  
RECLAIM advisory committee periodically shall do all of the 56572  
following: 56573

(1) Evaluate the operation of the RECLAIM program by the department of youth services, evaluate the implementation of the RECLAIM program by the counties, and evaluate the efficiency of the formula described in section 5139.41 of the Revised Code. In conducting these evaluations, the committee shall consider the public policy that RECLAIM funds are to be expended to provide the most appropriate programs and services for felony delinquents and other youthful offenders. 56574  
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(2) Advise the department of youth services, the office of budget and management, and the general assembly on the following changes that the committee believes should be made: 56582  
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(a) Changes to sections of the Revised Code that pertain to the RECLAIM program, specifically the formula specified in section 5139.41 of the Revised Code; 56585  
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(b) Changes in the funding level for the RECLAIM program, specifically the amounts distributed under the formula for county allocations, community correctional facilities, and juvenile correctional facility budgets. 56588  
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**Sec. 5139.87.** (A) The department of youth services shall serve as the state agent for the administration of all federal juvenile justice grants awarded to the state. 56592  
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(B) There are hereby created in the state treasury the federal juvenile justice programs funds. A separate fund shall be established each federal fiscal year. All federal grants and other moneys received for federal juvenile programs shall be deposited into the funds. All receipts deposited into the funds shall be used for federal juvenile programs. All investment earnings on the cash balance in a federal juvenile program fund shall be credited to that fund for the appropriate federal fiscal year. 56595  
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(C) All rules, orders, and determinations of the office of 56603

criminal justice services regarding the administration of federal 56604  
juvenile justice grants that are in effect on the effective date 56605  
of this amendment shall continue in effect as rules, orders, and 56606  
determinations of the department of youth services. 56607

**Sec. 5153.122.** (A) Each caseworker hired by a public children 56608  
services agency shall complete at least ninety hours of in-service 56609  
training during the first year of the caseworker's continuous 56610  
employment, except that the director of the public children 56611  
services agency may waive the training requirement for a school of 56612  
social work graduate who participated in the university 56613  
partnership program described in division (D) of section 5101.141 56614  
of the Revised Code. The training shall consist of courses in 56615  
recognizing and preventing child abuse and neglect, assessing 56616  
risks, interviewing persons, investigating cases, intervening, 56617  
providing services to children and their families, and other 56618  
topics relevant to child abuse and neglect. After the first year 56619  
of continuous employment, each caseworker annually shall complete 56620  
thirty-six hours of training in areas relevant to the caseworker's 56621  
assigned duties. 56622

(B) Each supervisor hired by a public children services 56623  
agency shall complete at least sixty hours of in-service training 56624  
during the first year of the supervisor's continuous employment in 56625  
that position. After the first year of continuous employment as a 56626  
supervisor, the supervisor annually shall complete thirty hours of 56627  
training in areas relevant to the supervisor's assigned duties. 56628

**Sec. 5153.163.** (A) As used in this section, "adoptive parent" 56629  
means, as the context requires, a prospective adoptive parent or 56630  
an adoptive parent. 56631

(B)(1) ~~If~~ Before a child's adoption is finalized, a public 56632  
children services agency ~~considers a child with special needs~~ 56633

~~residing in the county served by the agency to be in need of~~ 56634  
~~public care or protective services and all of the following apply,~~ 56635  
~~the agency shall enter into an agreement with the child's adoptive~~ 56636  
~~parent before the child is adopted~~ under which the agency shall 56637  
make state adoption maintenance subsidy payments as needed on 56638  
behalf of the child when all of the following apply: 56639

(a) The child is a child with special needs. 56640

(b) The child was placed in the adoptive home by a public 56641  
children services agency or a private child placing agency and may 56642  
legally be adopted. 56643

(c) The adoptive parent has the capability of providing the 56644  
permanent family relationships needed by the child ~~in all areas~~ 56645  
~~except financial need as determined by the agency;.~~ 56646

~~(b)(d)~~ The needs of the child are beyond the economic 56647  
resources of the adoptive parent ~~as determined by the agency;.~~ 56648

~~(c) The agency determines the acceptance~~ (e) Acceptance of 56649  
the child as a member of the adoptive parent's family would not be 56650  
in the child's best interest without payments on the child's 56651  
behalf under this section. 56652

~~(2) Payments to an adoptive parent under division (B) of this~~ 56653  
~~section shall include medical, surgical, psychiatric,~~ 56654  
~~psychological, and counseling expenses, and may include~~ 56655  
~~maintenance costs if necessary and other costs incidental to the~~ 56656  
~~care of the child. No payment of maintenance costs shall be made~~ 56657  
~~under division (B) of this section on behalf of a child if either~~ 56658  
~~of the following apply:~~ 56659

~~(a)(f)~~ The gross income of the adoptive parent's family 56660  
~~exceeds~~ does not exceed one hundred twenty per cent of the median 56661  
income of a family of the same size, including the child, as most 56662  
recently determined for this state by the secretary of health and 56663  
human services under Title XX of the "Social Security Act," 88 56664

Stat. 2337, 42 U.S.C.A. 1397, as amended~~+~~. 56665

~~(b)(g)~~ The child is not eligible for adoption assistance 56666  
payments ~~for maintenance costs~~ under Title IV-E of the "Social 56667  
Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended. 56668

(2) State adoption maintenance subsidy payment agreements 56669  
must be made by either the public children services agency that 56670  
has permanent custody of the child or the public children services 56671  
agency of the county in which the private child placing agency 56672  
that has permanent custody of the child is located. 56673

(3) State adoption maintenance subsidy payments shall be made 56674  
in accordance with the agreement between the public children 56675  
services agency and the adoptive parent and are subject to an 56676  
annual redetermination of need. 56677

(4) Payments under this division ~~(B) of this section~~ may 56678  
begin either before or after issuance of the final adoption 56679  
decree, except that payments made before issuance of the final 56680  
adoption decree may be made only while the child is living in the 56681  
adoptive parent's home. Preadoption payments may be made for not 56682  
more than twelve months, unless the final adoption decree is not 56683  
issued within that time because of a delay in court proceedings. 56684  
Payments that begin before issuance of the final adoption decree 56685  
may continue after its issuance. 56686

(C)(1) If, after the child's adoption is finalized, a public 56687  
children services agency considers a child residing in the county 56688  
served by the agency to be in need of public care or protective 56689  
services and both of the following apply, the agency may, and to 56690  
the extent state funds are appropriated for this purpose shall, 56691  
enter into an agreement with the child's adoptive parent after the 56692  
child is adopted under which the agency shall make post adoption 56693  
special services subsidy payments on behalf of the child as needed 56694  
when both of the following apply: 56695

~~(1)(a)~~ The child has a physical or developmental handicap or mental or emotional condition that either: 56696  
56697

~~(a)(i)~~ Existed before the adoption petition was filed; or 56698

~~(b)(ii)~~ Developed after the adoption petition was filed and can be directly attributed to factors in the child's preadoption background, medical history, or biological family's background or medical history. 56699  
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~~(2)(b)~~ The agency determines the expenses necessitated by the child's handicap or condition are beyond the adoptive parent's economic resources. 56703  
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~~Payments to an adoptive parent~~ (2) Services for which a public children services agency may make post adoption special services subsidy payments on behalf of a child under this division shall include medical, surgical, psychiatric, psychological, and counseling ~~expenses~~ services, including residential treatment. 56706  
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(3) The department of job and family services shall establish clinical standards to evaluate a child's physical or developmental handicap or mental or emotional condition and assess the child's need for services. 56711  
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(4) The total dollar value of post adoption special services subsidy payments made on a child's behalf shall not exceed ten thousand dollars in any fiscal year, unless the department determines that extraordinary circumstances exist that necessitate further funding of services for the child. Under such extraordinary circumstances, the value of the payments made on the child's behalf shall not exceed fifteen thousand dollars in any fiscal year. 56715  
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(5) The adoptive parent or parents of a child who receives post adoption special services subsidy payments shall pay at least five per cent of the total cost of all services provided to the 56723  
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child; except that a public children services agency may waive 56726  
this requirement if the gross annual income of the child's 56727  
adoptive family is not more than two hundred per cent of the 56728  
federal poverty guideline. 56729

(6) A public children services agency may use other sources 56730  
of revenue to make post adoption special services subsidy 56731  
payments, in addition to any state funds appropriated for that 56732  
purpose. 56733

(D) No payment shall be made under division (B) or (C) of 56734  
this section on behalf of any person eighteen years of age or 56735  
older beyond the end of the school year during which the person 56736  
attains the age of eighteen or on behalf of a mentally or 56737  
physically handicapped person twenty-one years of age or older. 56738  
~~Payments under those divisions shall be made in accordance with~~ 56739  
~~the terms of the agreement between the public children services~~ 56740  
~~agency and the adoptive parent, subject to an annual~~ 56741  
~~redetermination of need. The agency may use sources of funding in~~ 56742  
~~addition to any state funds appropriated for the purposes of those~~ 56743  
~~divisions.~~ 56744

(E) The director of job and family services shall adopt rules 56745  
in accordance with Chapter 119. of the Revised Code that are 56746  
needed to implement this section. The rules shall establish all of 56747  
the following: 56748

(1) The application process for ~~payments~~ all forms of 56749  
assistance provided under this section; 56750

(2) The method to determine the ~~amounts and kinds~~ amount of 56751  
assistance payable under division (B) of this section; 56752

(3) The definition of "child with special needs" for this 56753  
section; 56754

(4) The process whereby a child's continuing need for 56755  
services provided under division (B) of this section is annually 56756



redetermined; 56757

(5) The method of determining the amount, duration, and scope of services provided to a child under division (C) of this section; 56758  
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(6) Any other rule, requirement, or procedure the department considers appropriate for the implementation of this section. 56761  
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~~The rules shall allow for payments for children placed by nonpublic agencies.~~ 56763  
56764

~~(E)~~(F) The state adoption special services subsidy program ceases to exist on July 1, 2004, except that, subject to the findings of the annual redetermination process established under division (E) of this section and the child's individual need for services, a public children services agency may continue to provide state adoption special services subsidy payments on behalf of a child for whom payments were being made prior to July 1, 2004. 56765  
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(G) No public children services agency shall, pursuant to either section 2151.353 or 5103.15 of the Revised Code, place or maintain a child with special needs who is in the permanent custody of an institution or association certified by the department of job and family services under section 5103.03 of the Revised Code in a setting other than with a person seeking to adopt the child, unless the agency has determined and redetermined at intervals of not more than six months the impossibility of adoption by a person listed pursuant to division (B), (C), or (D) of section 5103.154 of the Revised Code, including the impossibility of entering into a payment agreement with such a person. The agency so maintaining such a child shall report its reasons for doing so to the department of job and family services. ~~No agency that fails to so determine, redetermine, and report shall receive more than fifty per cent of the state funds to which~~ 56773  
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~~it would otherwise be eligible for that part of the fiscal year~~ 56788  
~~following placement under section 5101.14 of the Revised Code.~~ 56789

The department may take any action permitted under section 56790  
5101.24 of the Revised Code for an agency's failure to determine, 56791  
redetermine, and report on a child's status. 56792

**Sec. 5153.60.** (A) The department of job and family services 56793  
shall establish a statewide program that provides ~~the~~ all of the 56794  
following: 56795

(1) The training section 5153.122 of the Revised Code 56796  
requires public children services agency caseworkers and 56797  
supervisors to complete. ~~The program may also provide the;~~ 56798

(2) The preplacement and continuing training described in 56799  
sections 5103.034, 5103.039, 5103.0310, and 5103.0311 of the 56800  
Revised Code that foster caregivers are required by sections 56801  
5103.031, 5103.032, and 5103.033 of the Revised Code to obtain- 56802  
The; 56803

(3) The education programs for adoption assessors required by 56804  
section 3107.014 of the Revised Code. 56805

(B) The training described in division (A)(1) of this section 56806  
shall be conducted in accordance with rules adopted by the 56807  
department of job and family services under section 111.15 of the 56808  
Revised Code and the training and programs described in divisions 56809  
(A)(2) and (3) of this section shall be conducted in accordance 56810  
with rules adopted under Chapter 119. of the Revised Code. 56811

(C) The program established pursuant to division (A) of this 56812  
section shall be called the "Ohio child welfare training program." 56813

**Sec. 5153.69.** The training program steering committee shall 56814  
monitor and evaluate the Ohio child welfare training program to 56815  
ensure the following: 56816

(A) That the Ohio child welfare training program is a 56817  
competency-based training system that satisfies the training 56818  
requirements for public children services agency caseworkers and 56819  
supervisors under section 5153.122 of the Revised Code; 56820

(B) That, ~~if~~ the Ohio child welfare training program provides 56821  
preplacement or continuing training for foster caregivers, ~~it is~~ as 56822  
required by section 5153.60 of the Revised Code that meets the 56823  
~~same~~ requirements ~~that~~ preplacement training programs and 56824  
continuing training programs must meet pursuant to section 56825  
5103.038 of the Revised Code to obtain approval by the department 56826  
of job and family services, except that the Ohio child welfare 56827  
training program is not required to obtain department approval. 56828

**Sec. 5153.72.** Prior to the beginning of the fiscal biennium 56829  
that first follows ~~the effective date of this section~~ October 5, 56830  
2000, the public children services agencies of Athens, Cuyahoga, 56831  
Franklin, Greene, Guernsey, Hamilton, Lucas, and Summit counties 56832  
shall each establish and maintain a regional training center. At 56833  
any time after the beginning of that biennium, the department of 56834  
job and family services, on the recommendation of the training 56835  
program steering committee, may direct a public children services 56836  
agency to establish and maintain a training center to replace the 56837  
center established by an agency under this section. There may be 56838  
no more and no less than eight centers in existence at any time. 56839  
The department may make a grant to a public children services 56840  
agency that establishes and maintains a regional training center 56841  
under this section for the purpose of wholly or partially 56842  
subsidizing the operation of the center. 56843

**Sec. 5153.78.** (A) As used in this section: 56844

(1) "Title IV-B" means Title IV-B of the "Social Security Act 56845  
of 1967," 81 Stat. 821, 42 U.S.C. 620, as amended. 56846

(2) "Title IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 670(1980). 56847  
56848

(3) "Title XX" has the same meaning as in section 5101.46 of the Revised Code. 56849  
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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: 56851  
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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; 56854  
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(2) Funds available under Title XX, Title IV-B, and Title IV-E to pay for training costs; 56857  
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(3) Other available state or federal funds. 56859

**Sec. 5301.68.** An owner of land may grant a conservation easement to the department of natural resources, a park district created under Chapter 1545. of the Revised Code, a township park district created under section 511.18 of the Revised Code, a conservancy district created under Chapter 6101. of the Revised Code, a soil and water conservation district created under Chapter 1515. of the Revised Code, a county, a township, a municipal corporation, or a charitable organization that is authorized to hold conservation easements by division (B) of section 5301.69 of the Revised Code, in the form of articles of dedication, easement, covenant, restriction, or condition. An owner of land also may grant an agricultural easement to the director of agriculture; to a municipal corporation, county, ~~or township,~~ or soil and water conservation district; or to a charitable organization described in division (B) of section 5301.69 of the Revised Code. An owner of land may grant an agricultural easement only on land that is valued for purposes of real property taxation at its current value 56860  
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for agricultural use under section 5713.31 of the Revised Code or 56877  
that constitutes a homestead when the easement is granted. 56878

All conservation easements and agricultural easements shall 56879  
be executed and recorded in the same manner as other instruments 56880  
conveying interests in land. 56881

**Sec. 5301.691.** (A)(1) Subject to divisions (A)(2) and ~~(E)~~(F) 56882  
of this section, the director of agriculture, with moneys credited 56883  
to the agricultural easement purchase fund created in section 56884  
901.21 of the Revised Code, may purchase agricultural easements in 56885  
the name of the state. 56886

(2) Not less than thirty days prior to the acquisition of an 56887  
agricultural easement under division (A)(1) of this section or the 56888  
extinguishment of such an easement purchased under that division, 56889  
the director shall provide written notice of the intention to do 56890  
so to the board of county commissioners of the county in which the 56891  
land that is or is proposed to be subject to the easement or 56892  
extinguishment is located, and either to the legislative authority 56893  
of the municipal corporation in which the land is located, if it 56894  
is located in an incorporated area, or to the board of township 56895  
trustees of the township in which the land is located, if it is 56896  
located in an unincorporated area. If, within thirty days after 56897  
the director provides the notice, the board of county 56898  
commissioners, legislative authority, or board of township 56899  
trustees requests an informational meeting with the director 56900  
regarding the proposed acquisition or extinguishment, the director 56901  
shall meet with the legislative authority or board to respond to 56902  
the board's or authority's questions and concerns. If a meeting is 56903  
timely requested under division (A)(2) of this section, the 56904  
director shall not undertake the proposed acquisition or 56905  
extinguishment until after the meeting has been concluded. 56906

The director, upon the director's own initiative and prior to 56907

the purchase of an agricultural easement under division (A)(1) of 56908  
this section or the extinguishment of such an easement, may hold 56909  
an informational meeting with the board of county commissioners 56910  
and the legislative authority of the municipal corporation or 56911  
board of township trustees in which land that would be affected by 56912  
the proposed acquisition or extinguishment is located, to respond 56913  
to any questions and concerns of the board or authority regarding 56914  
the proposed acquisition or extinguishment. 56915

(B)(1) Subject to division ~~(E)~~(F) of this section, the 56916  
legislative authority of a municipal corporation, board of county 56917  
commissioners of a county, or board of trustees of a township, 56918  
with moneys in the political subdivision's general fund not 56919  
required by law or charter to be used for other specified purposes 56920  
or with moneys in a special fund of the political subdivision to 56921  
be used for the purchase of agricultural easements, may purchase 56922  
agricultural easements in the name of the municipal corporation, 56923  
county, or township. 56924

(2) Subject to division ~~(E)~~(F) of this section, the 56925  
legislative authority of a municipal corporation, board of county 56926  
commissioners of a county, or board of township trustees of a 56927  
township may acquire agricultural easements by gift, devise, or 56928  
bequest. Any terms may be included in an agricultural easement so 56929  
acquired that are necessary or appropriate to preserve on behalf 56930  
of the grantor of the easement the favorable tax consequences of 56931  
the gift, devise, or bequest under the "Internal Revenue Act of 56932  
1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 56933

(C)(1) Subject to division (F) of this section, the board of 56934  
supervisors of a soil and water conservation district, with moneys 56935  
in any fund not required by law to be used for other specified 56936  
purposes or with moneys provided to the board through matching 56937  
grants made under section 901.22 of the Revised Code for the 56938  
purchase of agricultural easements, may purchase agricultural 56939

easements in the name of the board. 56940

(2) Subject to division (F) of this section, the board of 56941  
supervisors of a soil and water conservation district may acquire 56942  
agricultural easements by gift, devise, or bequest. Any terms may 56943  
be included in an agricultural easement so acquired that are 56944  
necessary or appropriate to preserve on behalf of the grantor of 56945  
the easement the favorable tax consequences of the gift, devise, 56946  
or bequest under the "Internal Revenue Act of 1986," 100 Stat. 56947  
2085, 26 U.S.C.A. 1, as amended. 56948

(D)(1) The term of an agricultural easement purchased wholly 56949  
or in part with money from the agricultural easement purchase fund 56950  
shall be perpetual and shall run with the land. 56951

(2) The term of an agricultural easement purchased by ~~such a~~ 56952  
the legislative authority of a municipal corporation, board of 56953  
county commissioners of a county, board of township trustees of a 56954  
township, or board of supervisors of a soil and water conservation 56955  
district without the use of any money from the agricultural 56956  
easement purchase fund may be perpetual or for a specified period. 56957  
The agricultural easement shall run with the land. The instrument 56958  
conveying an agricultural easement for a specified period shall 56959  
include provisions specifying, at a minimum, all of the following: 56960

(a) The consideration to be paid for the easement and manner 56961  
of payment; 56962

(b) Whether the easement is renewable and, if so, procedures 56963  
for its renewal; 56964

(c) The circumstances under which the easement may be 56965  
extinguished; 56966

(d) The method for determining the amount of money, if any, 56967  
due the holder of the easement upon extinguishment and for payment 56968  
of that amount to the holder. 56969

~~(D)~~(E)(1) The director and each legislative authority of a 56970  
municipal corporation, board of county commissioners, ~~or~~ board of 56971  
township trustees, or board of supervisors of a soil and water 56972  
conservation district, upon acquiring an agricultural easement by 56973  
purchase, gift, devise, or bequest under this section or section 56974  
901.21 of the Revised Code, shall name an appropriate 56975  
administrative officer, department, or division to supervise and 56976  
enforce the easement. A legislative authority ~~or~~ of a municipal 56977  
corporation, board of county commissioners, or board of township 56978  
trustees may enter into a contract with the board of park 56979  
commissioners of a park district established under Chapter 1545. 56980  
of the Revised Code, the board of park commissioners of a township 56981  
park district established under section 511.18 of the Revised 56982  
Code, or the board of supervisors of a soil and water conservation 56983  
district ~~established under Chapter 1515. of the Revised Code~~ 56984  
having territorial jurisdiction within the municipal corporation, 56985  
county, or township, or with a charitable organization described 56986  
in division (B) of section 5301.69 of the Revised Code, to 56987  
supervise on behalf of the legislative authority or board an 56988  
agricultural easement so acquired. A board of supervisors of a 56989  
soil and water conservation district may enter into a contract 56990  
with the board of park commissioners of a park district 56991  
established under Chapter 1545. of the Revised Code or the board 56992  
of park commissioners of a township park district established 56993  
under section 511.18 of the Revised Code having territorial 56994  
jurisdiction within the soil and water conservation district, or 56995  
with a charitable organization described in division (B) of 56996  
section 5301.69 of the Revised Code, to supervise on behalf of the 56997  
board an agricultural easement so acquired. The contract may be 56998  
entered into on such terms as are agreeable to the parties and 56999  
shall specify or prescribe a method for determining the amounts of 57000  
any payments to be made by the legislative authority ~~or~~, board of 57001  
county commissioners ~~or~~, board of township trustees, or board of 57002



supervisors for the performance of the contract. 57003

(2) With respect to an agricultural easement purchased with a 57004  
matching grant that is made under division (D) of section 901.22 57005  
of the Revised Code and that consists in whole or in part of 57006  
moneys from the clean Ohio agricultural easement fund created in 57007  
section 901.21 of the Revised Code, the recipient of the matching 57008  
grant shall make an annual monitoring visit to the land that is 57009  
the subject of the easement. The purpose of the visit is to ensure 57010  
that no development that is prohibited by the terms of the 57011  
easement has occurred or is occurring. In accordance with rules 57012  
adopted under division (A)(1)(d) of section 901.22 of the Revised 57013  
Code, the grant recipient shall prepare a written annual 57014  
monitoring report and submit it to the office of farmland 57015  
preservation in the department of agriculture. If necessary to 57016  
enforce the terms of the easement, the grant recipient shall take 57017  
corrective action in accordance with those rules. The director may 57018  
agree to share these monitoring and enforcement responsibilities 57019  
with the grant recipient. 57020

~~(E)~~(F) The director; a municipal corporation, county, or 57021  
township, or soil and water conservation district; or a charitable 57022  
organization ~~described in division (B) of section 5301.69 of the~~ 57023  
~~Revised Code,~~ may acquire agricultural easements by purchase, 57024  
gift, devise, or bequest only on land that is valued for purposes 57025  
of real property taxation at its current value for agricultural 57026  
use under section 5713.31 of the Revised Code or that constitutes 57027  
a homestead when the easement is granted. 57028

~~(F)~~(G) An agricultural easement acquired by the director 57029  
under division (A) of this section may be extinguished if an 57030  
unexpected change in the conditions of or surrounding the land 57031  
that is subject to the easement makes impossible or impractical 57032  
the continued use of the land for the purposes described in the 57033  
agricultural easement, or if the requirements of the easement are 57034

extinguished by judicial proceedings. Upon the sale, exchange, or 57035  
involuntary conversion of the land subject to the easement, the 57036  
director shall be paid an amount of money that is at least equal 57037  
to the proportionate value of the easement compared to the total 57038  
value of the land at the time the easement was acquired. Moneys so 57039  
received shall be credited to the agricultural easement purchase 57040  
fund. 57041

An agricultural easement acquired by a municipal corporation, 57042  
county, or township under division (B) of this section or by a 57043  
soil and water conservation district under division (C) of this 57044  
section may be extinguished under the circumstances prescribed, 57045  
and in accordance with the terms and conditions set forth, in the 57046  
instrument conveying the agricultural easement. An agricultural 57047  
easement acquired by a charitable organization described in 57048  
division (B) of section 5301.69 of the Revised Code may be 57049  
extinguished under the circumstances prescribed, and in accordance 57050  
with the terms and conditions set forth, in the instrument 57051  
conveying the agricultural easement. 57052

Any instrument extinguishing an agricultural easement shall 57053  
be executed and recorded in the same manner as other instruments 57054  
conveying or terminating interests in real property. 57055

~~(G)~~(H) Promptly after the recording and indexing of an 57056  
instrument conveying an agricultural easement to any person or to 57057  
a municipal corporation, county, ~~or~~ township, or soil and water 57058  
conservation district or of an instrument extinguishing an 57059  
agricultural easement held by any person or such a political 57060  
subdivision, the county recorder shall mail, by regular mail, a 57061  
photocopy of the instrument to the office of farmland preservation 57062  
in the department of agriculture. The photocopy shall be 57063  
accompanied by an invoice for the applicable fee established in 57064  
section 317.32 of the Revised Code. Promptly after receiving the 57065  
photocopy and invoice, the office of farmland preservation shall 57066

remit the fee to the county recorder. 57067

~~(H)~~(I) The director, the legislative authority of a municipal 57068  
corporation, a board of county commissioners, ~~or~~ a board of 57069  
township trustees, or a board of supervisors of a soil and water 57070  
conservation district may receive and expend grants from any 57071  
public or private source for the purpose of purchasing 57072  
agricultural easements and supervising and enforcing them. 57073

**Sec. 5310.15.** On filing an application for registration, the 57074  
applicant shall pay to the clerk of the probate court or the clerk 57075  
of the court of common pleas ten dollars, which is full payment 57076  
for all clerk's fees and charges in such proceeding on behalf of 57077  
the applicant. Any defendant, except a guardian ad litem, on 57078  
entering ~~his~~ an appearance by filing a pleading of any kind, shall 57079  
pay to the clerk five dollars, which is full payment for all 57080  
clerk's fees on behalf of such defendant. When any number of 57081  
defendants enter their appearance at the same time in one pleading 57082  
by filing a pleading of any kind, one fee shall be paid. 57083

Every required publication in a newspaper shall be paid for 57084  
by the party on whose application the order of publication is 57085  
made, in addition to the fees prescribed in the first paragraph of 57086  
this section. The party at whose request, or on whose behalf, any 57087  
notice is issued, shall pay for the service of such notice except 57088  
when such notice is sent by mail by the clerk or the county 57089  
recorder. 57090

Examiners of titles shall receive for examining title or 57091  
original reference, and making report on all matters arising under 57092  
the application, including final certificate as to all necessary 57093  
parties being made and properly brought before the probate court 57094  
or the court of common pleas, and as to the proceedings being 57095  
regular and legal, one half of one per cent of the appraised tax 57096  
value, the fee in no case to be less than seventy-five or more 57097

than two hundred fifty dollars, for each separate and distinct 57098  
parcel of land included in the application although made up of 57099  
more than one tract. 57100

Upon a reference to an examiner of titles or to any other 57101  
person upon a hearing to take evidence and make report to the 57102  
court, the fee of the referee shall be fixed by the court at not 57103  
more than fifteen dollars per day for the time actually employed. 57104

For a certificate of an examiner of titles that all necessary 57105  
parties are before the court, and the proceedings are regular and 57106  
legal in a suit for partition, foreclosure of mortgage, 57107  
marshalling of liens, or other suit or proceeding affecting the 57108  
title of any interest in, or lien or charge upon registered lands, 57109  
the fees shall be fixed by the court, and shall not be more than 57110  
twenty-five dollars for each separate and distinct parcel of land 57111  
included in the petition or application although such parcel is 57112  
made up of more than one tract. 57113

Guardians for the suit in original registration shall receive 57114  
three dollars when there is no contest in which the guardian 57115  
participates. In other cases such guardians shall receive such 57116  
fees as the court fixes, but not more than twenty-five dollars. 57117

For certifying pending suits, judgments, liens, attachments, 57118  
executions, or levies, the officers certifying them to the 57119  
recorder shall receive a fee of twenty-five cents to be paid by 57120  
the party interested and taxed in the costs of the case. 57121

For serving summons, notice, or other paper provided for in 57122  
sections 5309.02 to 5310.21 of the Revised Code, the sheriff or 57123  
other officer shall receive the same fees as in other similar 57124  
cases. 57125

The recorder shall receive the following fees, to include 57126  
base fees for services and housing trust fund fees pursuant to 57127  
section 317.36 of the Revised Code: 57128

(A) For original registration of title, issuing duplicate certificate, entering memorials and memorandums, as directed by the decree, and indexing it, a base fee of thirty dollars and a housing trust fund fee of thirty dollars;

(B) For examining and registering each transfer of registered land, including the filing of all papers therewith, entering memorials, issuing new duplicate certificate of title and indexing it, a base fee of thirty dollars and a housing trust fund fee of thirty dollars for the first distinct body or parcel of land contained in such certificate, and a base fee of two dollars and a housing trust fund fee of two dollars for each additional distinct body or parcel of land contained in such certificate;

(C) For filing, examining, and entering a memorial of each mortgage or lease, upon registered land, and indexing it, for each separately registered parcel, a base fee of ten dollars and a housing trust fund fee of ten dollars;

(D) For filing, examining, and entering a memorial of each lien, charge, or demand upon registered land, and indexing it, for each separately registered parcel of land, a base fee of five dollars and a housing trust fund fee of five dollars;

(E) For cancellation of any memorial or memorandum, a base fee of five dollars and a housing trust fund fee of five dollars; for entry of change of address, or notice of dower, for each separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars;

(F) For each certified copy of a registered certificate, or issuing a mortgagee's duplicate certificate, or issuing a new owner's duplicate certificate to replace one which has been lost or destroyed, a base fee of fifteen dollars and a housing trust fund fee of fifteen dollars;

(G) For filing, examining, and entering a memorial of each

release, assignment, or waiver of priority of a mortgage, lease, 57160  
lien, charge, or demand upon registered land and indexing it, for 57161  
each separately registered parcel, a base fee of five dollars and 57162  
a housing trust fund fee of five dollars; 57163

(H) For filing, examining, and entering a memorial of each 57164  
official certificate of pending suit, judgment, lien, attachment, 57165  
execution, or levy, upon registered land and indexing it, for each 57166  
separately registered parcel, a base fee of five dollars and a 57167  
housing trust fund fee of five dollars; 57168

(I) For continuing an owner's duplicate certificate, or 57169  
mortgagee's duplicate certificate and entering and certifying 57170  
memorials and notations thereon, a base fee of five dollars and a 57171  
housing trust fund fee of five dollars; 57172

(J) For certificate as to taxes and special assessments, for 57173  
each separately registered parcel, a base fee of ten dollars and a 57174  
housing trust fund fee of ten dollars; 57175

(K) For filing, recording, and indexing any papers or 57176  
instruments other than those provided in this section, any 57177  
certified copy of record, or of any instrument on file in ~~his~~ the 57178  
recorder's office, the same fees allowed by law for like services; 57179

(L) For issuing subpoenas and notices and swearing witnesses, 57180  
the same fees allowed the clerk for like services. 57181

Costs as provided in this section may be taxed and by the 57182  
court ordered to be paid by the parties in such manner as is just. 57183

**Sec. 5502.01.** (A) The department of public safety shall 57184  
administer and enforce the laws relating to the registration, 57185  
licensing, sale, and operation of motor vehicles and the laws 57186  
pertaining to the licensing of drivers of motor vehicles. 57187

The department shall compile, analyze, and publish statistics 57188  
relative to motor vehicle accidents and the causes of them, 57189

prepare and conduct educational programs for the purpose of 57190  
promoting safety in the operation of motor vehicles on the 57191  
highways, and conduct research and studies for the purpose of 57192  
promoting safety on the highways of this state. 57193

(B) The department shall administer the laws and rules 57194  
relative to trauma and emergency medical services specified in 57195  
Chapter 4765. of the Revised Code. 57196

(C) The department shall administer and enforce the laws 57197  
contained in Chapters 4301. and 4303. of the Revised Code and 57198  
enforce the rules and orders of the liquor control commission 57199  
pertaining to retail liquor permit holders. 57200

(D) The department shall administer the laws governing the 57201  
state emergency management agency and shall enforce all additional 57202  
duties and responsibilities as prescribed in the Revised Code 57203  
related to emergency management services. 57204

(E) The department shall conduct investigations pursuant to 57205  
Chapter 5101. of the Revised Code in support of the duty of the 57206  
department of job and family services to administer food stamp 57207  
programs throughout this state. The department of public safety 57208  
shall conduct investigations necessary to protect the state's 57209  
property rights and interests in the food stamp program. 57210

(F) The department of public safety shall enforce compliance 57211  
with orders and rules of the public utilities commission and 57212  
applicable laws in accordance with Chapters 4919., 4921., and 57213  
4923. of the Revised Code regarding commercial motor vehicle 57214  
transportation safety, economic, and hazardous materials 57215  
requirements. 57216

(G) Notwithstanding Chapter 4117. of the Revised Code, the 57217  
department of public safety may establish requirements for its 57218  
enforcement personnel, including its enforcement agents described 57219  
in section 5502.14 of the Revised Code, that include standards of 57220

conduct, work rules and procedures, and criteria for eligibility 57221  
as law enforcement personnel. 57222

(H) The department shall administer, maintain, and operate 57223  
the Ohio criminal justice network. The Ohio criminal justice 57224  
network shall be a computer network that supports state and local 57225  
criminal justice activities. The network shall be an electronic 57226  
repository for various data, which may include arrest warrants, 57227  
notices of persons wanted by law enforcement agencies, criminal 57228  
records, prison inmate records, stolen vehicle records, vehicle 57229  
operator's licenses, and vehicle registrations and titles. 57230

(I) The department shall coordinate all homeland security 57231  
activities of all state agencies and shall be a liaison between 57232  
state agencies and local entities for those activities and related 57233  
purposes. 57234

Sec. 5502.03. (A) There is hereby created in the department 57235  
of public safety a division of homeland security. It is the intent 57236  
of the general assembly that the creation of the division of 57237  
homeland security of the department of public safety by this 57238  
amendment does not result in an increase of funding appropriated 57239  
to the department. 57240

(B)(1) The division shall coordinate all homeland security 57241  
activities of all state agencies and shall be the liaison between 57242  
state agencies and local entities for the purposes of 57243  
communicating homeland security funding and policy initiatives. 57244

(2) The division shall be in charge of the systems operations 57245  
of the multi-agency radio communications system (MARCS) in 57246  
accordance with any rules that the director of public safety may 57247  
adopt. The director shall appoint a steering committee to advise 57248  
the director in the operation of the MARCS, comprised of persons 57249  
who represent the users of that system. The director or the 57250  
director's designee shall chair the committee. 57251



(C) The director of public safety shall appoint an executive director, who shall be head of the division of homeland security and who regularly shall advise the governor and the director on matters pertaining to homeland security. The executive director shall serve at the pleasure of the director of public safety. To carry out the duties assigned under this section, the executive director may appoint and maintain necessary staff and may enter into any necessary agreements. 57252  
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(D) Except as otherwise provided by law, nothing in this section shall be construed to give the director of public safety or the executive director of the division of homeland security authority over the incident management structure or responsibilities of local emergency response personnel. 57260  
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**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. 57265  
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**Sec. 5549.21.** The board of township trustees may purchase or lease such machinery and tools as are necessary for use in constructing, reconstructing, maintaining, and repairing roads and culverts within the township, and shall provide suitable places for housing and storing machinery and tools owned by the township. It may purchase such material and employ such labor as is necessary for carrying into effect this section, or it may 57275  
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authorize the purchase or employment of such material and labor by 57282  
one of its number, or by the township highway superintendent, at a 57283  
price to be fixed by the board. All payments on account of 57284  
machinery, tools, material, and labor shall be made from the 57285  
township road fund. Except as otherwise provided in sections 57286  
505.08, 505.101, and 5513.01 of the Revised Code, all purchases of 57287  
materials, machinery, and tools shall, ~~where~~ if the amount 57288  
involved exceeds ~~fifteen~~ twenty-five thousand dollars, be made 57289  
from the lowest responsible bidder after advertisement, as 57290  
provided in section 5575.01 of the Revised Code. ~~Where~~ 57291

If, in compliance with section 505.10 of the Revised Code, 57292  
the board wishes to sell machinery, equipment, or tools owned by 57293  
the township to the person from whom it is to purchase other 57294  
machinery, equipment, or tools, the board may offer, ~~where~~ if the 57295  
amount of the purchase alone involved does not exceed ~~fifteen~~ 57296  
twenty-five thousand dollars, to sell such machinery, equipment, 57297  
or tools and have the amount credited by the vendor against the 57298  
purchase of the other machinery, equipment, or tools. ~~Where~~ If the 57299  
purchase price of the other machinery, equipment, or tools alone 57300  
exceeds ~~fifteen~~ twenty-five thousand dollars, the board may give 57301  
notice to the competitive bidders of its willingness to accept 57302  
offers for the purchase of the old machinery, equipment, or tools, 57303  
and ~~such~~ those offers shall be subtracted from the selling price 57304  
of the other machinery, equipment, or tools as bid, in determining 57305  
the lowest responsible bidder. Notice of the willingness of the 57306  
board to accept offers for the purchase of the old machinery, 57307  
equipment, or tools shall be made as a part of the advertisement 57308  
for bids. 57309

**Sec. 5703.052. (A)** There is hereby created in the state 57310  
treasury the tax refund fund, from which refunds shall be paid for 57311  
taxes illegally or erroneously assessed or collected, or for any 57312  
other reason overpaid, that are levied by Chapter 4301., 4305., 57313

5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 57314  
5749., or 5753., and sections 3737.71, 3905.35, 3905.36, 4303.33, 57315  
5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 of the 57316  
Revised Code. Refunds for fees illegally or erroneously assessed 57317  
or collected, or for any other reason overpaid, that are levied by 57318  
sections 3734.90 to 3734.9014 of the Revised Code also shall be 57319  
paid from the fund. However, refunds for taxes levied under 57320  
section 5739.101 of the Revised Code shall not be paid from the 57321  
tax refund fund, but shall be paid as provided in section 5739.104 57322  
of the Revised Code. 57323

(B)(1) Upon certification by the tax commissioner to the 57324  
treasurer of state of a tax refund, or fee refund, or tax credit 57325  
~~due,~~ or by the superintendent of insurance of a domestic or 57326  
foreign insurance tax refund, the treasurer of state ~~may~~ shall 57327  
place the amount certified to the credit of the fund. The 57328  
certified amount transferred shall be derived from current 57329  
receipts of the same tax or the fee ~~for~~ from which the refund 57330  
arose ~~or, in the case of a tax credit refund, from the current~~ 57331  
~~receipts of the taxes levied by sections 5739.02 and 5741.02 of~~ 57332  
~~the Revised Code. If~~ 57333

~~If the tax refund arises from a tax payable to the general~~ 57334  
~~revenue fund, and current receipts from that source~~ the tax or fee 57335  
from which the refund arose are inadequate to make the transfer of 57336  
the amount so certified, the treasurer of state ~~may~~ shall transfer 57337  
such certified amount from current receipts of the sales tax 57338  
levied by section 5739.02 of the Revised Code. 57339

(2) When the treasurer of state provides for the payment of a 57340  
refund of a tax or fee from the current receipts of the sales tax, 57341  
and the refund is for a tax or fee that is not levied by the 57342  
state, the tax commissioner shall recover the amount of that 57343  
refund from the next distribution of that tax or fee that 57344  
otherwise would be made to the taxing jurisdiction. If the amount 57345

to be recovered would exceed twenty-five per cent of the next 57346  
distribution of that tax or fee, the commissioner may spread the 57347  
recovery over more than one future distribution, taking into 57348  
account the amount to be recovered and the amount of the 57349  
anticipated future distributions. In no event may the commissioner 57350  
spread the recovery over a period to exceed twenty-four months. 57351

Sec. 5703.56. (A) As used in this section: 57352

(1) "Sham transaction" means a transaction or series of 57353  
transactions without economic substance because there is no 57354  
business purpose or expectation of profit other than obtaining tax 57355  
benefits. 57356

(2) "Tax" includes any tax or fee administered by the tax 57357  
commissioner. 57358

(3) "Taxpayer" includes any entity subject to a tax. 57359

(4) "Controlled group" means two or more persons related in 57360  
such a way that one person directly or indirectly owns or controls 57361  
the business operation of another member of the group. In the case 57362  
of persons with stock or other equity, one person owns or controls 57363  
another if it directly or indirectly owns more than fifty per cent 57364  
of the other person's common stock with voting rights or other 57365  
equity with voting rights. 57366

(B) The tax commissioner may disregard any sham transaction 57367  
in ascertaining any taxpayer's tax liability. Except as otherwise 57368  
provided in the Revised Code, with respect to transactions between 57369  
members of a controlled group, the taxpayer shall bear the burden 57370  
of establishing by a preponderance of the evidence that a 57371  
transaction or series of transactions between the taxpayer and one 57372  
or more members of the controlled group was not a sham 57373  
transaction. Except as otherwise provided in the Revised Code, for 57374  
all other taxpayers, the tax commissioner shall bear the burden of 57375

establishing by a preponderance of the evidence that a transaction 57376  
or series of transactions was a sham transaction. 57377

(C) In administering any tax, the tax commissioner may apply 57378  
the doctrines of "economic reality," "substance over form," and 57379  
"step transaction." 57380

(D) If the commissioner disregards a sham transaction under 57381  
division (B) of this section, the applicable limitation period for 57382  
assessing the tax, together with applicable penalties, charges, 57383  
and interest, shall be extended for a period equal to the 57384  
applicable limitation period. Nothing in this division shall be 57385  
construed as extending an applicable limitation period for 57386  
claiming any refund of a tax. 57387

(E) The tax commissioner may, in accordance with Chapter 119. 57388  
of the Revised Code, adopt rules that are necessary to administer 57389  
this section, including rules establishing criteria for 57390  
identifying sham transactions. 57391

**Sec. 5703.58.** (A) As used in this section, "felony" has the 57392  
same meaning as in section 109.511 of the Revised Code. 57393

(B) For the purposes of enforcing all laws relating to taxes 57394  
and fees that the tax commissioner is responsible for 57395  
administering, the tax commissioner, by journal entry, may 57396  
delegate any investigation powers of the commissioner to an 57397  
employee of the department of taxation who has been certified by 57398  
the executive director of the Ohio peace officer training 57399  
commission. Each journal entry shall be a matter of public record 57400  
and shall be kept in an administrative portion of the journal 57401  
maintained under division (L) of section 5703.05 of the Revised 57402  
Code. When that journal entry is completed, the employee to whom 57403  
it pertains, while engaged within the scope of the employee's 57404  
duties in enforcing the laws that the commissioner is responsible 57405  
for administering, has the power of a police officer to carry 57406

concealed weapons, make arrests, and obtain warrants for 57407  
violations of those laws. The commissioner, at any time, may 57408  
suspend or revoke the commissioner's delegation by journal entry. 57409

(C) The tax commissioner shall not delegate any investigation 57410  
powers to an employee of the department of taxation under division 57411  
(B) of this section if the employee has been convicted of or has 57412  
pleaded guilty to a felony. 57413

(D)(1) The tax commissioner shall revoke the delegation of 57414  
investigation powers to an employee to whom the delegation was 57415  
made under division (B) of this section if that employee does 57416  
either of the following: 57417

(a) Pleads guilty to a felony; 57418

(b) Pleads guilty to a misdemeanor pursuant to a negotiated 57419  
plea agreement, as provided in division (D) of section 2929.29 of 57420  
the Revised Code, in which the employee agrees under section 57421  
109.77 of the Revised Code to surrender the certificate awarded to 57422  
that employee. 57423

(2) The tax commissioner shall suspend the delegation of 57424  
investigation powers to an employee to whom the delegation was 57425  
made under division (B) of this section if that employee is 57426  
convicted, after trial, of a felony. If the employee files an 57427  
appeal from that conviction and the conviction is upheld by the 57428  
highest court to which the appeal is taken, or if the employee 57429  
does not file a timely appeal, the commissioner shall revoke the 57430  
delegation of investigation powers to that employee. If the 57431  
employee files an appeal that results in that employee's acquittal 57432  
of the felony or conviction of a misdemeanor, or in the dismissal 57433  
of the felony charge against that employee, the commissioner shall 57434  
reinstate the delegation of investigation powers to that employee. 57435  
The revocation, suspension, or reinstatement of the delegation of 57436  
investigation powers to an employee under division (D) of this 57437

section shall be made by journal entry pursuant to division (B) of 57438  
this section. An employee to whom the delegation of investigation 57439  
powers is reinstated under division (D)(2) of this section shall 57440  
not receive any back pay for the exercise of those investigation 57441  
powers, unless that employee's conviction of the felony was 57442  
reversed on appeal, or the felony charge was dismissed, because 57443  
the court found insufficient evidence to convict the employee of 57444  
the felony. 57445

(3) The revocation or suspension of the delegation of 57446  
investigation powers to an employee under division (D) of this 57447  
section shall be in accordance with Chapter 119. of the Revised 57448  
Code. 57449

(E) Divisions (C) and (D) of this section do not apply to an 57450  
offense that was committed prior to January 1, 1997. 57451

(F) Nothing in this section limits the tax commissioner's 57452  
ability to have other employees of the department of taxation 57453  
conduct investigations as authorized by sections 5703.17 and 57454  
5703.19 of the Revised Code. 57455

(G) The department of taxation shall cooperate with the 57456  
attorney general, local law enforcement officials, and appropriate 57457  
agencies of the federal government and other states in the 57458  
investigation and prosecution of violations of all laws relating 57459  
to taxes and fees administered by the tax commissioner. 57460

**Sec. 5703.80.** There is hereby created in the state treasury 57461  
the property tax administration fund. All money to the credit of 57462  
the fund shall be used to defray the costs incurred by the 57463  
department of taxation in administering the taxation of property 57464  
and the equalization of real property valuation. 57465

Each fiscal year between the first and fifteenth days of 57466  
July, the tax commissioner shall compute the following amounts for 57467

the property in each taxing district in each county, and certify 57468  
to the director of budget and management the sum of those amounts 57469  
for all taxing districts in all counties: 57470

(A) Three-tenths of one per cent of the total amount by which 57471  
taxes charged against real property on the general tax list of 57472  
real and public utility property were reduced under section 57473  
319.302 of the Revised Code for the preceding tax year; 57474

(B) Fifteen-hundredths of one per cent of the total amount of 57475  
taxes charged and payable against public utility personal property 57476  
on the general tax list of real and public utility property for 57477  
the preceding tax year; 57478

(C) Seventy-five hundredths of one per cent of the total 57479  
amount of taxes charged and payable against tangible personal 57480  
property on the general tax list of personal property of the 57481  
preceding tax year and for which returns were filed with the tax 57482  
commissioner under section 5711.13 of the Revised Code. 57483

After receiving the tax commissioner's certification, the 57484  
director of budget and management shall transfer from the general 57485  
revenue fund to the property tax administration fund one-fourth of 57486  
the amount certified on or before each of the following days: the 57487  
first days of August, November, February, and May. 57488

On or before the thirtieth day of June of the fiscal year, 57489  
the tax commissioner shall certify to the director of budget and 57490  
management the sum of the amounts by which the amounts computed 57491  
for a taxing district under divisions (A), (B), and (C) of this 57492  
section exceeded the distributions to the taxing district under 57493  
division (F) of section 321.24 of the Revised Code, and the 57494  
director shall transfer that sum from the property tax 57495  
administration fund to the general revenue fund. 57496

**Sec. 5705.39.** The total appropriations from each fund shall 57497



not exceed the total of the estimated revenue available for 57498  
expenditure therefrom, as certified by the budget commission, or 57499  
in case of appeal, by the board of tax appeals. No appropriation 57500  
measure shall become effective until the county auditor files with 57501  
the appropriating authority ~~and in the case of a school district,~~ 57502  
~~also files with the superintendent of public instruction,~~ a 57503  
certificate that the total appropriations from each fund, taken 57504  
together with all other outstanding appropriations, do not exceed 57505  
such official estimate or amended official estimate. When the 57506  
appropriation does not exceed such official estimate, the county 57507  
auditor shall give such certificate forthwith upon receiving from 57508  
the appropriating authority a certified copy of the appropriation 57509  
measure, ~~a copy of which he shall deliver to the superintendent of~~ 57510  
~~public instruction in the case of a school district.~~ 57511  
Appropriations shall be made from each fund only for the purposes 57512  
for which such fund is established. 57513

**Sec. 5705.41.** No subdivision or taxing unit shall: 57514

(A) Make any appropriation of money except as provided in 57515  
Chapter 5705. of the Revised Code; provided, that the 57516  
authorization of a bond issue shall be deemed to be an 57517  
appropriation of the proceeds of the bond issue for the purpose 57518  
for which such bonds were issued, but no expenditure shall be made 57519  
from any bond fund until first authorized by the taxing authority; 57520

(B) Make any expenditure of money unless it has been 57521  
appropriated as provided in such chapter; 57522

(C) Make any expenditure of money except by a proper warrant 57523  
drawn against an appropriate fund; 57524

(D)(1) Except as otherwise provided in division (D)(2) of 57525  
this section and section 5705.44 of the Revised Code, make any 57526  
contract or give any order involving the expenditure of money 57527  
unless there is attached thereto a certificate of the fiscal 57528

officer of the subdivision that the amount required to meet the 57529  
obligation or, in the case of a continuing contract to be 57530  
performed in whole or in part in an ensuing fiscal year, the 57531  
amount required to meet the obligation in the fiscal year in which 57532  
the contract is made, has been lawfully appropriated for such 57533  
purpose and is in the treasury or in process of collection to the 57534  
credit of an appropriate fund free from any previous encumbrances. 57535  
This certificate need be signed only by the subdivision's fiscal 57536  
officer. Every such contract made without such a certificate shall 57537  
be void, and no warrant shall be issued in payment of any amount 57538  
due thereon. If no certificate is furnished as required, upon 57539  
receipt by the taxing authority of the subdivision or taxing unit 57540  
of a certificate of the fiscal officer stating that there was at 57541  
the time of the making of such contract or order and at the time 57542  
of the execution of such certificate a sufficient sum appropriated 57543  
for the purpose of such contract and in the treasury or in process 57544  
of collection to the credit of an appropriate fund free from any 57545  
previous encumbrances, such taxing authority may authorize the 57546  
drawing of a warrant in payment of amounts due upon such contract, 57547  
but such resolution or ordinance shall be passed within thirty 57548  
days after the taxing authority receives such certificate; 57549  
provided that, if the amount involved is less than one hundred 57550  
dollars in the case of counties or three thousand dollars in the 57551  
case of all other subdivisions or taxing units, the fiscal officer 57552  
may authorize it to be paid without such affirmation of the taxing 57553  
authority of the subdivision or taxing unit, if such expenditure 57554  
is otherwise valid. 57555

(2) Annually, the board of county commissioners may adopt a 57556  
resolution exempting for the current fiscal year county purchases 57557  
of seven hundred fifty dollars or less from the requirement of 57558  
division (D)(1) of this section that a certificate be attached to 57559  
any contract or order involving the expenditure of money. The 57560  
resolution shall state the dollar amount that is exempted from the 57561

certificate requirement and whether the exemption applies to all 57562  
purchases, to one or more specific classes of purchases, or to the 57563  
purchase of one or more specific items. Prior to the adoption of 57564  
the resolution, the board shall give written notice to the county 57565  
auditor that it intends to adopt the resolution. The notice shall 57566  
state the dollar amount that is proposed to be exempted and 57567  
whether the exemption would apply to all purchases, to one or more 57568  
specific classes of purchases, or to the purchase of one or more 57569  
specific items. The county auditor may review and comment on the 57570  
proposal, and shall send any comments to the board within fifteen 57571  
days after receiving the notice. The board shall wait at least 57572  
fifteen days after giving the notice to the auditor before 57573  
adopting the resolution. A person authorized to make a county 57574  
purchase in a county that has adopted such a resolution shall 57575  
prepare and file with the county auditor, within three business 57576  
days after incurring an obligation not requiring a certificate, a 57577  
written document specifying the purpose and amount of the 57578  
expenditure, the date of the purchase, the name of the vendor, and 57579  
such additional information as the auditor of state may prescribe. 57580

(3) Upon certification by the auditor or other chief fiscal 57581  
officer that a certain sum of money, not in excess of ~~five~~ 57582  
~~thousand dollars~~ an amount established by resolution or ordinance 57583  
adopted by a majority of the members of the legislative authority 57584  
of the subdivision or taxing unit, has been lawfully appropriated, 57585  
authorized, or directed for a certain purpose and is in the 57586  
treasury or in the process of collection to the credit of a 57587  
specific line-item appropriation account in a certain fund free 57588  
from previous and then outstanding obligations or certifications, 57589  
then for such purpose and from such line-item appropriation 57590  
account in such fund, over a period ~~not exceeding three months and~~ 57591  
not extending beyond the end of the fiscal year, expenditures may 57592  
be made, orders for payment issued, and contracts or obligations 57593  
calling for or requiring the payment of money made and assumed; 57594

provided, that the aggregate sum of money included in and called 57595  
for by such expenditures, orders, contracts, and obligations shall 57596  
not exceed the sum so certified. Such a certification need be 57597  
signed only by the fiscal officer of the subdivision or the taxing 57598  
district and may, but need not, be limited to a specific vendor. 57599  
An itemized statement of obligations incurred and expenditures 57600  
made under such certificate shall be rendered to the auditor or 57601  
other chief fiscal officer before another such certificate may be 57602  
issued, and not more than one such certificate shall be 57603  
outstanding at a time. 57604

In addition to providing the certification for expenditures 57605  
~~of five thousand dollars or less~~ as provided specified in this 57606  
division, a subdivision also may make expenditures, issue orders 57607  
for payment, and make contracts or obligations calling for or 57608  
requiring the payment of money made and assumed for specified 57609  
permitted purposes from a specific line-item appropriation account 57610  
in a specified fund for a sum of money upon the certification by 57611  
the fiscal officer of the subdivision that this sum of money has 57612  
been lawfully appropriated, authorized, or directed for a 57613  
permitted purpose and is in the treasury or in the process of 57614  
collection to the credit of the specific line-item appropriation 57615  
account in the specified fund free from previous and 57616  
then-outstanding obligations or certifications; provided that the 57617  
aggregate sum of money included in and called for by the 57618  
expenditures, orders, and obligations shall not exceed the 57619  
certified sum. The purposes for which a subdivision may lawfully 57620  
appropriate, authorize, or issue such a certificate are the 57621  
services of an accountant, architect, attorney at law, physician, 57622  
professional engineer, construction project manager, consultant, 57623  
surveyor, or appraiser by or on behalf of the subdivision or 57624  
contracting authority; fuel oil, gasoline, food items, roadway 57625  
materials, and utilities; and any purchases exempt from 57626  
competitive bidding under section 125.04 of the Revised Code and 57627

any other specific expenditure that is a recurring and reasonably 57628  
predictable operating expense. Such a certification shall not 57629  
extend beyond the end of the fiscal year or, in the case of a 57630  
board of county commissioners that has established a quarterly 57631  
spending plan under section 5705.392 of the Revised Code, beyond 57632  
the quarter to which the plan applies. Such a certificate shall be 57633  
signed by the fiscal officer and may, but need not, be limited to 57634  
a specific vendor. An itemized statement of obligations incurred 57635  
and expenditures made under such a certificate shall be rendered 57636  
to the fiscal officer for each certificate issued. More than one 57637  
such certificate may be outstanding at any time. 57638

In any case in which a contract is entered into upon a per 57639  
unit basis, the head of the department, board, or commission for 57640  
the benefit of which the contract is made shall make an estimate 57641  
of the total amount to become due upon such contract, which 57642  
estimate shall be certified in writing to the fiscal officer of 57643  
the subdivision. Such a contract may be entered into if the 57644  
appropriation covers such estimate, or so much thereof as may be 57645  
due during the current year. In such a case the certificate of the 57646  
fiscal officer based upon the estimate shall be a sufficient 57647  
compliance with the law requiring a certificate. 57648

Any certificate of the fiscal officer attached to a contract 57649  
shall be binding upon the political subdivision as to the facts 57650  
set forth therein. Upon request of any person receiving an order 57651  
or entering into a contract with any political subdivision, the 57652  
certificate of the fiscal officer shall be attached to such order 57653  
or contract. "Contract" as used in this section excludes current 57654  
payrolls of regular employees and officers. 57655

Taxes and other revenue in process of collection, or the 57656  
proceeds to be derived from authorized bonds, notes, or 57657  
certificates of indebtedness sold and in process of delivery, 57658  
shall for the purpose of this section be deemed in the treasury or 57659

in process of collection and in the appropriate fund. This section 57660  
applies neither to the investment of sinking funds by the trustees 57661  
of such funds, nor to investments made under sections 731.56 to 57662  
731.59 of the Revised Code. 57663

No district authority shall, in transacting its own affairs, 57664  
do any of the things prohibited to a subdivision by this section, 57665  
but the appropriation referred to shall become the appropriation 57666  
by the district authority, and the fiscal officer referred to 57667  
shall mean the fiscal officer of the district authority. 57668

**Sec. 5705.412.** (A) As used in this section, "qualifying 57669  
contract" means any agreement for the expenditure of money under 57670  
which aggregate payments from the funds included in the school 57671  
district's five-year forecast under section 5705.391 of the 57672  
Revised Code will exceed the lesser of the following amounts: 57673

(1) Five hundred thousand dollars; 57674

(2) One per cent of the total revenue to be credited in the 57675  
current fiscal year to the district's general fund, as specified 57676  
in the district's most recent certificate of estimated resources 57677  
certified under section 5705.36 of the Revised Code. 57678

(B) Notwithstanding section 5705.41 of the Revised Code, no 57679  
school district shall adopt any appropriation measure, make any 57680  
qualifying contract, or increase during any school year any wage 57681  
or salary schedule unless there is attached thereto a certificate, 57682  
signed as required by this section, that the school district has 57683  
in effect the authorization to levy taxes including the renewal or 57684  
replacement of existing levies which, when combined with the 57685  
estimated revenue from all other sources available to the district 57686  
at the time of certification, are sufficient to provide the 57687  
operating revenues necessary to enable the district to maintain 57688  
all personnel and programs for all the days set forth in its 57689  
adopted school calendars for the current fiscal year and for a 57690

number of days in succeeding fiscal years equal to the number of 57691  
days instruction was held or is scheduled for the current fiscal 57692  
year, as follows: 57693

(1) A certificate attached to an appropriation measure under 57694  
this section shall cover only the fiscal year in which the 57695  
appropriation measure is effective and shall not consider the 57696  
renewal or replacement of an existing levy as the authority to 57697  
levy taxes that are subject to appropriation in the current fiscal 57698  
year unless the renewal or replacement levy has been approved by 57699  
the electors and is subject to appropriation in the current fiscal 57700  
year. 57701

(2) A certificate attached, in accordance with this section, 57702  
to any qualifying contract shall cover the term of the contract. 57703

(3) A certificate attached under this section to a wage or 57704  
salary schedule shall cover the term of the schedule. 57705

If the board of education has not adopted a school calendar 57706  
for the school year beginning on the first day of the fiscal year 57707  
in which a certificate is required, the certificate attached to an 57708  
appropriation measure shall include the number of days on which 57709  
instruction was held in the preceding fiscal year and other 57710  
certificates required under this section shall include that number 57711  
of days for the fiscal year in which the certificate is required 57712  
and any succeeding fiscal years that the certificate must cover. 57713

The certificate shall be signed by the treasurer and 57714  
president of the board of education and the superintendent of the 57715  
school district, unless the district is in a state of fiscal 57716  
emergency declared under Chapter 3316. of the Revised Code. In 57717  
that case, the certificate shall be signed by a member of the 57718  
district's financial planning and supervision commission who is 57719  
designated by the commission for this purpose. 57720

(C) Every qualifying contract made or wage or salary schedule 57721

adopted or put into effect without such a certificate shall be 57722  
void, and no payment of any amount due thereon shall be made. 57723

(D) The department of education and the auditor of state 57724  
jointly shall adopt rules governing the methods by which 57725  
treasurers, presidents of boards of education, superintendents, 57726  
and members of financial planning and supervision commissions 57727  
shall estimate revenue and determine whether such revenue is 57728  
sufficient to provide necessary operating revenue for the purpose 57729  
of making certifications required by this section. 57730

(E) The auditor of state shall be responsible for determining 57731  
whether school districts are in compliance with this section. At 57732  
the time a school district is audited pursuant to section 117.11 57733  
of the Revised Code, the auditor of state shall review each 57734  
certificate issued under this section since the district's last 57735  
audit, and the appropriation measure, contract, or wage and salary 57736  
schedule to which such certificate was attached. If the auditor of 57737  
state determines that a school district has not complied with this 57738  
section with respect to any qualifying contract or wage or salary 57739  
schedule, the auditor of state shall notify the prosecuting 57740  
attorney for the county, the city director of law, or other chief 57741  
law officer of the school district. That officer may file a civil 57742  
action in any court of appropriate jurisdiction to seek a 57743  
declaration that the contract or wage or salary schedule is void, 57744  
to recover for the school district from the payee the amount of 57745  
payments already made under it, or both, except that the officer 57746  
shall not seek to recover payments made under any collective 57747  
bargaining agreement entered into under Chapter 4117. of the 57748  
Revised Code. If the officer does not file such an action within 57749  
one hundred twenty days after receiving notice of noncompliance 57750  
from the auditor of state, any taxpayer may institute the action 57751  
in the taxpayer's own name on behalf of the school district. 57752

(F) This section does not apply to any contract or increase 57753



in any wage or salary schedule that is necessary in order to 57754  
enable a board of education to comply with division (B) of section 57755  
3317.13 of the Revised Code, provided the contract or increase 57756  
does not exceed the amount required to be paid to be in compliance 57757  
with such division. 57758

(G) Any officer, employee, or other person who expends or 57759  
authorizes the expenditure of any public funds or authorizes or 57760  
executes any contract or schedule contrary to this section, 57761  
expends or authorizes the expenditure of any public funds on the 57762  
void contract or schedule, or issues a certificate under this 57763  
section which contains any false statements is liable to the 57764  
school district for the full amount paid from the district's funds 57765  
on the contract or schedule. The officer, employee, or other 57766  
person is jointly and severally liable in person and upon any 57767  
official bond that the officer, employee, or other person has 57768  
given to the school district to the extent of any payments on the 57769  
void claim, not to exceed ten thousand dollars. However, no 57770  
officer, employee, or other person shall be liable for a mistaken 57771  
estimate of available resources made in good faith and based upon 57772  
reasonable grounds. If an officer, employee, or other person is 57773  
found to have complied with rules jointly adopted by the 57774  
department of education and the auditor of state under this 57775  
section governing methods by which revenue shall be estimated and 57776  
determined sufficient to provide necessary operating revenue for 57777  
the purpose of making certifications required by this section, the 57778  
officer, employee, or other person shall not be liable under this 57779  
section if the estimates and determinations made according to 57780  
those rules do not, in fact, conform with actual revenue. The 57781  
prosecuting attorney of the county, the city director of law, or 57782  
other chief law officer of the district shall enforce this 57783  
liability by civil action brought in any court of appropriate 57784  
jurisdiction in the name of and on behalf of the school district. 57785  
If the prosecuting attorney, city director of law, or other chief 57786

law officer of the district fails, upon the written request of any taxpayer, to institute action for the enforcement of the liability, the attorney general, or the taxpayer in the taxpayer's own name, may institute the action on behalf of the subdivision.

(H) This section does not require the attachment of an additional certificate beyond that required by section 5705.41 of the Revised Code for current payrolls of, or contracts of employment with, ~~regular~~ any employees or officers of the school district.

This section does not require the attachment of a certificate to a temporary appropriation measure if all of the following apply:

(1) The amount appropriated does not exceed twenty-five per cent of the total amount from all sources available for expenditure from any fund during the preceding fiscal year;

(2) The measure will not be in effect on or after the thirtieth day following the earliest date on which the district may pass an annual appropriation measure;

(3) An amended official certificate of estimated resources for the current year, if required, has not been certified to the board of education under division (B) of section 5705.36 of the Revised Code.

**Sec. 5709.61.** As used in sections 5709.61 to 5709.69 of the Revised Code:

(A) "Enterprise zone" or "zone" means any of the following:

(1) An area with a single continuous boundary designated in the manner set forth in section 5709.62 or 5709.63 of the Revised Code and certified by the director of development as having a population of at least four thousand according to the best and most recent data available to the director and having at least two

of the following characteristics: 57817

(a) It is located in a municipal corporation defined by the 57818  
United States office of management and budget as a central city of 57819  
a metropolitan statistical area or in a city designated as an 57820  
urban cluster in a rural statistical area; 57821

(b) It is located in a county designated as being in the 57822  
"Appalachian region" under the "Appalachian Regional Development 57823  
Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended; 57824

(c) Its average rate of unemployment, during the most recent 57825  
twelve-month period for which data are available, is equal to at 57826  
least one hundred twenty-five per cent of the average rate of 57827  
unemployment for the state of Ohio for the same period; 57828

(d) There is a prevalence of commercial or industrial 57829  
structures in the area that are vacant or demolished, or are 57830  
vacant and the taxes charged thereon are delinquent, and 57831  
certification of the area as an enterprise zone would likely 57832  
result in the reduction of the rate of vacant or demolished 57833  
structures or the rate of tax delinquency in the area; 57834

(e) The population of all census tracts in the area, 57835  
according to the federal census of 1990, decreased by at least ten 57836  
per cent between the years 1970 and 1990; 57837

(f) At least fifty-one per cent of the residents of the area 57838  
have incomes of less than eighty per cent of the median income of 57839  
residents of the municipal corporation or municipal corporations 57840  
in which the area is located, as determined in the same manner 57841  
specified under section 119(b) of the "Housing and Community 57842  
Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as 57843  
amended; 57844

(g) The area contains structures previously used for 57845  
industrial purposes, but currently not so used due to age, 57846  
obsolescence, deterioration, relocation of the former occupant's 57847

operations, or cessation of operations resulting from unfavorable 57848  
economic conditions either generally or in a specific economic 57849  
sector; 57850

(h) It is located within one or more adjacent city, local, or 57851  
exempted village school districts, the income-weighted tax 57852  
capacity of each of which is less than seventy per cent of the 57853  
average of the income-weighted tax capacity of all city, local, or 57854  
exempted village school districts in the state according to the 57855  
most recent data available to the director from the department of 57856  
taxation. 57857

The director of development shall adopt rules in accordance 57858  
with Chapter 119. of the Revised Code establishing conditions 57859  
constituting the characteristics described in divisions (A)(1)(d), 57860  
(g), and (h) of this section. 57861

If an area could not be certified as an enterprise zone 57862  
unless it satisfied division (A)(1)(g) of this section, the 57863  
legislative authority may enter into agreements in that zone under 57864  
section 5709.62, 5709.63, or 5709.632 of the Revised Code only if 57865  
such agreements result in the development of the facilities 57866  
described in that division, the parcel of land on which such 57867  
facilities are situated, or adjacent parcels. The director of 57868  
development annually shall review all agreements in such zones to 57869  
determine whether the agreements have resulted in such 57870  
development; if the director determines that the agreements have 57871  
not resulted in such development, the director immediately shall 57872  
revoke certification of the zone and notify the legislative 57873  
authority of such revocation. Any agreements entered into prior to 57874  
revocation under this paragraph shall continue in effect for the 57875  
period provided in the agreement. 57876

(2) An area with a single continuous boundary designated in 57877  
the manner set forth in section 5709.63 of the Revised Code and 57878  
certified by the director of development as: 57879

(a) Being located within a county that contains a population of three hundred thousand or less; 57880  
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(b) Having a population of at least one thousand according to the best and most recent data available to the director; 57882  
57883

(c) Having at least two of the characteristics described in divisions (A)(1)(b) to (h) of this section. 57884  
57885

(3) An area with a single continuous boundary designated in the manner set forth under division (A)(1) of section 5709.632 of the Revised Code and certified by the director of development as having a population of at least four thousand, or under division (A)(2) of that section and certified as having a population of at least one thousand, according to the best and most recent data available to the director. 57886  
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(B) "Enterprise" means any form of business organization including, but not limited to, any partnership, sole proprietorship, or corporation, including an S corporation as defined in section 1361 of the Internal Revenue Code and any corporation that is majority work-owned either directly through the ownership of stock or indirectly through participation in an employee stock ownership plan. 57893  
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(C) "Facility" means an enterprise's place of business in a zone, including land, buildings, machinery, equipment, and other materials, except inventory, used in business. "Facility" includes land, buildings, machinery, production and station equipment, other equipment, and other materials, except inventory, used in business to generate electricity, provided that, for purposes of sections 5709.61 to 5709.69 of the Revised Code, the value of the property at such a facility shall be reduced by the value, if any, that is not apportioned under section 5727.15 of the Revised Code to the taxing district in which the facility is physically located. In the case of such a facility that is physically located 57900  
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in two adjacent taxing districts, the property located in each 57911  
taxing district constitutes a separate facility. 57912

"Facility" does not include any portion of an enterprise's 57913  
place of business used primarily for making retail sales, unless 57914  
the place of business is located in an impacted city as defined in 57915  
section 1728.01 of the Revised Code. 57916

(D) "Vacant facility" means a facility that has been vacant 57917  
for at least ninety days immediately preceding the date on which 57918  
an agreement is entered into under section 5709.62 or 5709.63 of 57919  
the Revised Code. 57920

(E) "Expand" means to make expenditures to add land, 57921  
buildings, machinery, equipment, or other materials, except 57922  
inventory, to a facility that equal at least ten per cent of the 57923  
market value of the facility prior to such expenditures, as 57924  
determined for the purposes of local property taxation. 57925

(F) "Renovate" means to make expenditures to alter or repair 57926  
a facility that equal at least fifty per cent of the market value 57927  
of the facility prior to such expenditures, as determined for the 57928  
purposes of local property taxation. 57929

(G) "Occupy" means to make expenditures to alter or repair a 57930  
vacant facility equal to at least twenty per cent of the market 57931  
value of the facility prior to such expenditures, as determined 57932  
for the purposes of local property taxation. 57933

(H) "Project site" means all or any part of a facility that 57934  
is newly constructed, expanded, renovated, or occupied by an 57935  
enterprise. 57936

(I) "Project" means any undertaking by an enterprise to 57937  
establish a facility or to improve a project site by expansion, 57938  
renovation, or occupancy. 57939

(J) "Position" means the position of one full-time employee 57940

performing a particular set of tasks and duties. 57941

(K) "Full-time employee" means an individual who is employed 57942  
for consideration by an enterprise for at least thirty-five hours 57943  
a week, or who renders any other standard of service generally 57944  
accepted by custom or specified by contract as full-time 57945  
employment. 57946

(L) "New employee" means a full-time employee first employed 57947  
by an enterprise at a facility that is a project site after the 57948  
enterprise enters an agreement under section 5709.62 or 5709.63 of 57949  
the Revised Code. "New employee" does not include an employee if, 57950  
immediately prior to being employed by the enterprise, the 57951  
employee was employed by an enterprise that is a related member or 57952  
predecessor enterprise of that enterprise. 57953

(M) "Unemployed person" means any person who is totally 57954  
unemployed in this state, as that term is defined in division (M) 57955  
of section 4141.01 of the Revised Code, for at least ten 57956  
consecutive weeks immediately preceding that person's employment 57957  
at a facility that is a project site, or who is so unemployed for 57958  
at least twenty-six of the fifty-two weeks immediately preceding 57959  
that person's employment at such a facility. 57960

(N) "JTPA eligible employee" means any individual who is 57961  
eligible for employment or training under the "Job Training 57962  
Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as 57963  
amended. 57964

(O) "First used in business" means that the property referred 57965  
to has not been used in business in this state by the enterprise 57966  
that owns it, or by an enterprise that is a related member or 57967  
predecessor enterprise of such an enterprise, other than as 57968  
inventory, prior to being used in business at a facility as the 57969  
result of a project. 57970

(P) "Training program" means any noncredit training program 57971

or course of study that is offered by any state college or 57972  
university; university branch district; community college; 57973  
technical college; nonprofit college or university certified under 57974  
section 1713.02 of the Revised Code; school district; joint 57975  
vocational school district; school registered and authorized to 57976  
offer programs under section 3332.05 of the Revised Code; an 57977  
entity administering any federal, state, or local adult education 57978  
and training program; or any enterprise; and that meets all of the 57979  
following requirements: 57980

(1) It is approved by the director of development; 57981

(2) It is established or operated to satisfy the need of a 57982  
particular industry or enterprise for skilled or semi-skilled 57983  
employees; 57984

(3) An individual is required to complete the course or 57985  
program before filling a position at a project site. 57986

(Q) "Development" means to engage in the process of clearing 57987  
and grading land, making, installing, or constructing water 57988  
distribution systems, sewers, sewage collection systems, steam, 57989  
gas, and electric lines, roads, curbs, gutters, sidewalks, storm 57990  
drainage facilities, and construction of other facilities or 57991  
buildings equal to at least fifty per cent of the market value of 57992  
the facility prior to the expenditures, as determined for the 57993  
purposes of local property taxation. 57994

(R) "Large manufacturing facility" means a single Ohio 57995  
facility that employed an average of at least one thousand 57996  
individuals during the five calendar years preceding an agreement 57997  
authorized under division (C)(3) of section 5709.62 or division 57998  
(B)(2) of section 5709.63 of the Revised Code. For purposes of 57999  
this division, both of the following apply: 58000

(1) A single Ohio manufacturing facility employed an average 58001  
of at least one thousand individuals during the five calendar 58002



years preceding entering into such an agreement if one-fifth of 58003  
the sum of the number of employees employed on the highest 58004  
employment day during each of the five calendar years equals or 58005  
exceeds one thousand. 58006

(2) The highest employment day is the day or days during a 58007  
calendar year on which the number of employees employed at a 58008  
single Ohio manufacturing facility was greater than on any other 58009  
day during the calendar year. 58010

(S) "Business cycle" means the cycle of business activity 58011  
usually regarded as passing through alternating stages of 58012  
prosperity and depression. 58013

(T) "Making retail sales" means the effecting of 58014  
point-of-final-purchase transactions at a facility open to the 58015  
consuming public, wherein one party is obligated to pay the price 58016  
and the other party is obligated to provide a service or to 58017  
transfer title to or possession of the item sold. 58018

(U) "Environmentally contaminated" means that hazardous 58019  
substances exist at a facility under conditions that have caused 58020  
or would cause the facility to be identified as contaminated by 58021  
the state or federal environmental protection agency. These may 58022  
include facilities located at sites identified in the master sites 58023  
list or similar database maintained by the state environmental 58024  
protection agency if the sites have been investigated by the 58025  
agency and found to be contaminated. 58026

(V) "Remediate" means to make expenditures to clean up an 58027  
environmentally contaminated facility so that it is no longer 58028  
environmentally contaminated that equal at least ten per cent of 58029  
the real property market value of the facility prior to such 58030  
expenditures as determined for the purposes of property taxation. 58031

(W) "Related member" has the same meaning as defined in 58032  
section 5733.042 of the Revised Code without regard to division 58033

(B) of that section, except that it is used with respect to an 58034  
enterprise rather than a taxpayer. 58035

(X) "Predecessor enterprise" means an enterprise from which 58036  
the assets or equity of another enterprise has been transferred, 58037  
which transfer resulted in the full or partial nonrecognition of 58038  
gain or loss, or resulted in a carryover basis, both as determined 58039  
by rule adopted by the tax commissioner. 58040

(Y) "Successor enterprise" means an enterprise to which the 58041  
assets or equity of another enterprise has been transferred, which 58042  
transfer resulted in the full or partial nonrecognition of gain or 58043  
loss, or resulted in a carryover basis, both as determined by rule 58044  
adopted by the tax commissioner. 58045

**Sec. 5709.62.** (A) In any municipal corporation that is 58046  
defined by the United States office of management and budget as a 58047  
central city of a metropolitan statistical area, or in a city 58048  
designated as an urban cluster in a rural statistical area, the 58049  
legislative authority of the municipal corporation may designate 58050  
one or more areas within its municipal corporation as proposed 58051  
enterprise zones. Upon designating an area, the legislative 58052  
authority shall petition the director of development for 58053  
certification of the area as having the characteristics set forth 58054  
in division (A)(1) of section 5709.61 of the Revised Code as 58055  
amended by Substitute Senate Bill No. 19 of the 120th general 58056  
assembly. Except as otherwise provided in division (E) of this 58057  
section, on and after July 1, 1994, legislative authorities shall 58058  
not enter into agreements under this section unless the 58059  
legislative authority has petitioned the director and the director 58060  
has certified the zone under this section as amended by that act; 58061  
however, all agreements entered into under this section as it 58062  
existed prior to July 1, 1994, and the incentives granted under 58063  
those agreements shall remain in effect for the period agreed to 58064

under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth

final estimates and listings as of the time the agreement is 58096  
entered into. The legislative authority may, on a separate form 58097  
and at any time, require any additional information necessary to 58098  
determine whether an enterprise is in compliance with an agreement 58099  
and to collect the information required to be reported under 58100  
section 5709.68 of the Revised Code. 58101

(C) Upon receipt and investigation of a proposal under 58102  
division (B) of this section, if the legislative authority finds 58103  
that the enterprise submitting the proposal is qualified by 58104  
financial responsibility and business experience to create and 58105  
preserve employment opportunities in the zone and improve the 58106  
economic climate of the municipal corporation, the legislative 58107  
authority, on or before ~~June 30, 2004~~ October 15, 2009, may do one 58108  
of the following: 58109

(1) Enter into an agreement with the enterprise under which 58110  
the enterprise agrees to establish, expand, renovate, or occupy a 58111  
facility and hire new employees, or preserve employment 58112  
opportunities for existing employees, in return for one or more of 58113  
the following incentives: 58114

(a) Exemption for a specified number of years, not to exceed 58115  
ten, of a specified portion, up to seventy-five per cent, of the 58116  
assessed value of tangible personal property first used in 58117  
business at the project site as a result of the agreement. An 58118  
exemption granted pursuant to this division applies to inventory 58119  
required to be listed pursuant to sections 5711.15 and 5711.16 of 58120  
the Revised Code, except that, in the instance of an expansion or 58121  
other situations in which an enterprise was in business at the 58122  
facility prior to the establishment of the zone, the inventory 58123  
that is exempt is that amount or value of inventory in excess of 58124  
the amount or value of inventory required to be listed in the 58125  
personal property tax return of the enterprise in the return for 58126  
the tax year in which the agreement is entered into. 58127

(b) Exemption for a specified number of years, not to exceed 58128  
ten, of a specified portion, up to seventy-five per cent, of the 58129  
increase in the assessed valuation of real property constituting 58130  
the project site subsequent to formal approval of the agreement by 58131  
the legislative authority; 58132

(c) Provision for a specified number of years, not to exceed 58133  
ten, of any optional services or assistance that the municipal 58134  
corporation is authorized to provide with regard to the project 58135  
site. 58136

(2) Enter into an agreement under which the enterprise agrees 58137  
to remediate an environmentally contaminated facility, to spend an 58138  
amount equal to at least two hundred fifty per cent of the true 58139  
value in money of the real property of the facility prior to 58140  
remediation as determined for the purposes of property taxation to 58141  
establish, expand, renovate, or occupy the remediated facility, 58142  
and to hire new employees or preserve employment opportunities for 58143  
existing employees at the remediated facility, in return for one 58144  
or more of the following incentives: 58145

(a) Exemption for a specified number of years, not to exceed 58146  
ten, of a specified portion, not to exceed fifty per cent, of the 58147  
assessed valuation of the real property of the facility prior to 58148  
remediation; 58149

(b) Exemption for a specified number of years, not to exceed 58150  
ten, of a specified portion, not to exceed one hundred per cent, 58151  
of the increase in the assessed valuation of the real property of 58152  
the facility during or after remediation; 58153

(c) The incentive under division (C)(1)(a) of this section, 58154  
except that the percentage of the assessed value of such property 58155  
exempted from taxation shall not exceed one hundred per cent; 58156

(d) The incentive under division (C)(1)(c) of this section. 58157

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed ten, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the assessed valuation of real property constituting the project site, or both.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent. For the purpose of obtaining such approval, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by

the legislative authority. The board of education may include in 58190  
the resolution conditions under which the board would approve the 58191  
agreement, including the execution of an agreement to compensate 58192  
the school district under division (B) of section 5709.82 of the 58193  
Revised Code. The legislative authority may approve the agreement 58194  
at any time after the board of education certifies its resolution 58195  
approving the agreement to the legislative authority, or, if the 58196  
board approves the agreement conditionally, at any time after the 58197  
conditions are agreed to by the board and the legislative 58198  
authority. 58199

If a board of education has adopted a resolution waiving its 58200  
right to approve agreements and the resolution remains in effect, 58201  
approval of an agreement by the board is not required under this 58202  
division. If a board of education has adopted a resolution 58203  
allowing a legislative authority to deliver the notice required 58204  
under this division fewer than forty-five business days prior to 58205  
the legislative authority's approval of the agreement, the 58206  
legislative authority shall deliver the notice to the board not 58207  
later than the number of days prior to such approval as prescribed 58208  
by the board in its resolution. If a board of education adopts a 58209  
resolution waiving its right to approve agreements or shortening 58210  
the notification period, the board shall certify a copy of the 58211  
resolution to the legislative authority. If the board of education 58212  
rescinds such a resolution, it shall certify notice of the 58213  
rescission to the legislative authority. 58214

(2) The legislative authority shall comply with section 58215  
5709.83 of the Revised Code unless the board of education has 58216  
adopted a resolution under that section waiving its right to 58217  
receive such notice. 58218

(E) This division applies to zones certified by the director 58219  
of development under this section prior to July 22, 1994. 58220

On or before ~~June 30, 2004~~ October 15, 2009, the legislative 58221

authority that designated a zone to which this division applies 58222  
may enter into an agreement with an enterprise if the legislative 58223  
authority makes the finding required under that division and 58224  
determines that the enterprise satisfies one of the criteria 58225  
described in divisions (E)(1) to (5) of this section: 58226

(1) The enterprise currently has no operations in this state 58227  
and, subject to approval of the agreement, intends to establish 58228  
operations in the zone; 58229

(2) The enterprise currently has operations in this state 58230  
and, subject to approval of the agreement, intends to establish 58231  
operations at a new location in the zone that would not result in 58232  
a reduction in the number of employee positions at any of the 58233  
enterprise's other locations in this state; 58234

(3) The enterprise, subject to approval of the agreement, 58235  
intends to relocate operations, currently located in another 58236  
state, to the zone; 58237

(4) The enterprise, subject to approval of the agreement, 58238  
intends to expand operations at an existing site in the zone that 58239  
the enterprise currently operates; 58240

(5) The enterprise, subject to approval of the agreement, 58241  
intends to relocate operations, currently located in this state, 58242  
to the zone, and the director of development has issued a waiver 58243  
for the enterprise under division (B) of section 5709.633 of the 58244  
Revised Code. 58245

The agreement shall require the enterprise to agree to 58246  
establish, expand, renovate, or occupy a facility in the zone and 58247  
hire new employees, or preserve employment opportunities for 58248  
existing employees, in return for one or more of the incentives 58249  
described in division (C) of this section. 58250

(F) All agreements entered into under this section shall be 58251  
in the form prescribed under section 5709.631 of the Revised Code. 58252



After an agreement is entered into under this division, if the 58253  
legislative authority revokes its designation of a zone, or if the 58254  
director of development revokes the zone's certification, any 58255  
entitlements granted under the agreement shall continue for the 58256  
number of years specified in the agreement. 58257

(G) Except as otherwise provided in this division, an 58258  
agreement entered into under this section shall require that the 58259  
enterprise pay an annual fee equal to the greater of one per cent 58260  
of the dollar value of incentives offered under the agreement or 58261  
five hundred dollars; provided, however, that if the value of the 58262  
incentives exceeds two hundred fifty thousand dollars, the fee 58263  
shall not exceed two thousand five hundred dollars. The fee shall 58264  
be payable to the legislative authority once per year for each 58265  
year the agreement is effective on the days and in the form 58266  
specified in the agreement. Fees paid shall be deposited in a 58267  
special fund created for such purpose by the legislative authority 58268  
and shall be used by the legislative authority exclusively for the 58269  
purpose of complying with section 5709.68 of the Revised Code and 58270  
by the tax incentive review council created under section 5709.85 58271  
of the Revised Code exclusively for the purposes of performing the 58272  
duties prescribed under that section. The legislative authority 58273  
may waive or reduce the amount of the fee charged against an 58274  
enterprise, but such a waiver or reduction does not affect the 58275  
obligations of the legislative authority or the tax incentive 58276  
review council to comply with section 5709.68 or 5709.85 of the 58277  
Revised Code. 58278

(H) When an agreement is entered into pursuant to this 58279  
section, the legislative authority authorizing the agreement shall 58280  
forward a copy of the agreement to the director of development and 58281  
to the tax commissioner within fifteen days after the agreement is 58282  
entered into. If any agreement includes terms not provided for in 58283  
section 5709.631 of the Revised Code affecting the revenue of a 58284

city, local, or exempted village school district or causing 58285  
revenue to be foregone by the district, including any compensation 58286  
to be paid to the school district pursuant to section 5709.82 of 58287  
the Revised Code, those terms also shall be forwarded in writing 58288  
to the director of development along with the copy of the 58289  
agreement forwarded under this division. 58290

(I) After an agreement is entered into, the enterprise shall 58291  
file with each personal property tax return required to be filed, 58292  
or annual report required to be filed under section 5727.08 of the 58293  
Revised Code, while the agreement is in effect, an informational 58294  
return, on a form prescribed by the tax commissioner for that 58295  
purpose, setting forth separately the property, and related costs 58296  
and values, exempted from taxation under the agreement. 58297

(J) Enterprises may agree to give preference to residents of 58298  
the zone within which the agreement applies relative to residents 58299  
of this state who do not reside in the zone when hiring new 58300  
employees under the agreement. 58301

(K) An agreement entered into under this section may include 58302  
a provision requiring the enterprise to create one or more 58303  
temporary internship positions for students enrolled in a course 58304  
of study at a school or other educational institution in the 58305  
vicinity, and to create a scholarship or provide another form of 58306  
educational financial assistance for students holding such a 58307  
position in exchange for the student's commitment to work for the 58308  
enterprise at the completion of the internship. 58309

**Sec. 5709.63.** (A) With the consent of the legislative 58310  
authority of each affected municipal corporation or of a board of 58311  
township trustees, a board of county commissioners may, in the 58312  
manner set forth in section 5709.62 of the Revised Code, designate 58313  
one or more areas in one or more municipal corporations or in 58314  
unincorporated areas of the county as proposed enterprise zones. A 58315

board of county commissioners may designate no more than one area 58316  
within a township, or within adjacent townships, as a proposed 58317  
enterprise zone. The board shall petition the director of 58318  
development for certification of the area as having the 58319  
characteristics set forth in division (A)(1) or (2) of section 58320  
5709.61 of the Revised Code as amended by Substitute Senate Bill 58321  
No. 19 of the 120th general assembly. Except as otherwise provided 58322  
in division (D) of this section, on and after July 1, 1994, boards 58323  
of county commissioners shall not enter into agreements under this 58324  
section unless the board has petitioned the director and the 58325  
director has certified the zone under this section as amended by 58326  
that act; however, all agreements entered into under this section 58327  
as it existed prior to July 1, 1994, and the incentives granted 58328  
under those agreements shall remain in effect for the period 58329  
agreed to under those agreements. The director shall make the 58330  
determination in the manner provided under section 5709.62 of the 58331  
Revised Code. Any enterprise wishing to enter into an agreement 58332  
with the board under division (B) or (D) of this section shall 58333  
submit a proposal to the board on the form and accompanied by the 58334  
application fee prescribed under division (B) of section 5709.62 58335  
of the Revised Code. The enterprise shall review and update the 58336  
estimates and listings required by the form in the manner required 58337  
under that division. The board may, on a separate form and at any 58338  
time, require any additional information necessary to determine 58339  
whether an enterprise is in compliance with an agreement and to 58340  
collect the information required to be reported under section 58341  
5709.68 of the Revised Code. 58342

(B) If the board of county commissioners finds that an 58343  
enterprise submitting a proposal is qualified by financial 58344  
responsibility and business experience to create and preserve 58345  
employment opportunities in the zone and to improve the economic 58346  
climate of the municipal corporation or municipal corporations or 58347  
the unincorporated areas in which the zone is located and to which 58348

the proposal applies, the board, on or before ~~June 30, 2004~~ 58349  
October 15, 2009, and with the consent of the legislative 58350  
authority of each affected municipal corporation or of the board 58351  
of township trustees may do either of the following: 58352

(1) Enter into an agreement with the enterprise under which 58353  
the enterprise agrees to establish, expand, renovate, or occupy a 58354  
facility in the zone and hire new employees, or preserve 58355  
employment opportunities for existing employees, in return for the 58356  
following incentives: 58357

(a) When the facility is located in a municipal corporation, 58358  
the board may enter into an agreement for one or more of the 58359  
incentives provided in division (C) of section 5709.62 of the 58360  
Revised Code, subject to division (D) of that section; 58361

(b) When the facility is located in an unincorporated area, 58362  
the board may enter into an agreement for one or more of the 58363  
following incentives: 58364

(i) Exemption for a specified number of years, not to exceed 58365  
ten, of a specified portion, up to sixty per cent, of the assessed 58366  
value of tangible personal property first used in business at a 58367  
project site as a result of the agreement. An exemption granted 58368  
pursuant to this division applies to inventory required to be 58369  
listed pursuant to sections 5711.15 and 5711.16 of the Revised 58370  
Code, except, in the instance of an expansion or other situations 58371  
in which an enterprise was in business at the facility prior to 58372  
the establishment of the zone, the inventory that is exempt is 58373  
that amount or value of inventory in excess of the amount or value 58374  
of inventory required to be listed in the personal property tax 58375  
return of the enterprise in the return for the tax year in which 58376  
the agreement is entered into. 58377

(ii) Exemption for a specified number of years, not to exceed 58378  
ten, of a specified portion, up to sixty per cent, of the increase 58379

in the assessed valuation of real property constituting the 58380  
project site subsequent to formal approval of the agreement by the 58381  
board; 58382

(iii) Provision for a specified number of years, not to 58383  
exceed ten, of any optional services or assistance the board is 58384  
authorized to provide with regard to the project site; 58385

(iv) The incentive described in division (C)(2) of section 58386  
5709.62 of the Revised Code. 58387

(2) Enter into an agreement with an enterprise that plans to 58388  
purchase and operate a large manufacturing facility that has 58389  
ceased operation or has announced its intention to cease 58390  
operation, in return for exemption for a specified number of 58391  
years, not to exceed ten, of a specified portion, up to one 58392  
hundred per cent, of tangible personal property used in business 58393  
at the project site as a result of the agreement, or of real 58394  
property constituting the project site, or both. 58395

(C)(1) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 58396  
this section, the portion of the assessed value of tangible 58397  
personal property or of the increase in the assessed valuation of 58398  
real property exempted from taxation under those divisions may 58399  
exceed sixty per cent in any year for which that portion is 58400  
exempted if the average percentage exempted for all years in which 58401  
the agreement is in effect does not exceed fifty per cent, or if 58402  
the board of education of the city, local, or exempted village 58403  
school district within the territory of which the property is or 58404  
will be located approves a percentage in excess of sixty per cent. 58405  
For the purpose of obtaining such approval, the board of 58406  
commissioners shall deliver to the board of education a notice not 58407  
later than forty-five days prior to approving the agreement, 58408  
excluding Saturdays, Sundays, and legal holidays as defined in 58409  
section 1.14 of the Revised Code. The notice shall state the 58410  
percentage to be exempted, an estimate of the true value of the 58411

property to be exempted, and the number of years the property is 58412  
to be exempted. The board of education, by resolution adopted by a 58413  
majority of the board, shall approve or disapprove the agreement 58414  
and certify a copy of the resolution to the board of commissioners 58415  
not later than fourteen days prior to the date stipulated by the 58416  
board of commissioners as the date upon which approval of the 58417  
agreement is to be formally considered by the board of 58418  
commissioners. The board of education may include in the 58419  
resolution conditions under which the board would approve the 58420  
agreement, including the execution of an agreement to compensate 58421  
the school district under division (B) of section 5709.82 of the 58422  
Revised Code. The board of county commissioners may approve the 58423  
agreement at any time after the board of education certifies its 58424  
resolution approving the agreement to the board of county 58425  
commissioners, or, if the board of education approves the 58426  
agreement conditionally, at any time after the conditions are 58427  
agreed to by the board of education and the board of county 58428  
commissioners. 58429

If a board of education has adopted a resolution waiving its 58430  
right to approve agreements and the resolution remains in effect, 58431  
approval of an agreement by the board of education is not required 58432  
under division (C) of this section. If a board of education has 58433  
adopted a resolution allowing a board of county commissioners to 58434  
deliver the notice required under this division fewer than 58435  
forty-five business days prior to approval of the agreement by the 58436  
board of county commissioners, the board of county commissioners 58437  
shall deliver the notice to the board of education not later than 58438  
the number of days prior to such approval as prescribed by the 58439  
board of education in its resolution. If a board of education 58440  
adopts a resolution waiving its right to approve agreements or 58441  
shortening the notification period, the board of education shall 58442  
certify a copy of the resolution to the board of county 58443  
commissioners. If the board of education rescinds such a 58444

resolution, it shall certify notice of the rescission to the board of county commissioners. 58445  
58446

(2) The board of county commissioners shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice. 58447  
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(D) This division applies to zones certified by the director of development under this section prior to July 22, 1994. 58451  
58452

On or before ~~June 30, 2004~~ October 15, 2009, and with the consent of the legislative authority of each affected municipal corporation or board of township trustees of each affected township, the board of commissioners that designated a zone to which this division applies may enter into an agreement with an enterprise if the board makes the finding required under that division and determines that the enterprise satisfies one of the criteria described in divisions (D)(1) to (5) of this section: 58453  
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(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone; 58461  
58462  
58463

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state; 58464  
58465  
58466  
58467  
58468

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone; 58469  
58470  
58471

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates; 58472  
58473  
58474

(5) The enterprise, subject to approval of the agreement, 58475  
intends to relocate operations, currently located in this state, 58476  
to the zone, and the director of development has issued a waiver 58477  
for the enterprise under division (B) of section 5709.633 of the 58478  
Revised Code. 58479

The agreement shall require the enterprise to agree to 58480  
establish, expand, renovate, or occupy a facility in the zone and 58481  
hire new employees, or preserve employment opportunities for 58482  
existing employees, in return for one or more of the incentives 58483  
described in division (B) of this section. 58484

(E) All agreements entered into under this section shall be 58485  
in the form prescribed under section 5709.631 of the Revised Code. 58486  
After an agreement under this section is entered into, if the 58487  
board of county commissioners revokes its designation of the zone, 58488  
or if the director of development revokes the zone's 58489  
certification, any entitlements granted under the agreement shall 58490  
continue for the number of years specified in the agreement. 58491

(F) Except as otherwise provided in this paragraph, an 58492  
agreement entered into under this section shall require that the 58493  
enterprise pay an annual fee equal to the greater of one per cent 58494  
of the dollar value of incentives offered under the agreement or 58495  
five hundred dollars; provided, however, that if the value of the 58496  
incentives exceeds two hundred fifty thousand dollars, the fee 58497  
shall not exceed two thousand five hundred dollars. The fee shall 58498  
be payable to the board of commissioners once per year for each 58499  
year the agreement is effective on the days and in the form 58500  
specified in the agreement. Fees paid shall be deposited in a 58501  
special fund created for such purpose by the board and shall be 58502  
used by the board exclusively for the purpose of complying with 58503  
section 5709.68 of the Revised Code and by the tax incentive 58504  
review council created under section 5709.85 of the Revised Code 58505  
exclusively for the purposes of performing the duties prescribed 58506



under that section. The board may waive or reduce the amount of 58507  
the fee charged against an enterprise, but such waiver or 58508  
reduction does not affect the obligations of the board or the tax 58509  
incentive review council to comply with section 5709.68 or 5709.85 58510  
of the Revised Code, respectively. 58511

(G) With the approval of the legislative authority of a 58512  
municipal corporation or the board of township trustees of a 58513  
township in which a zone is designated under division (A) of this 58514  
section, the board of county commissioners may delegate to that 58515  
legislative authority or board any powers and duties of the board 58516  
to negotiate and administer agreements with regard to that zone 58517  
under this section. 58518

(H) When an agreement is entered into pursuant to this 58519  
section, the legislative authority authorizing the agreement shall 58520  
forward a copy of the agreement to the director of development and 58521  
to the tax commissioner within fifteen days after the agreement is 58522  
entered into. If any agreement includes terms not provided for in 58523  
section 5709.631 of the Revised Code affecting the revenue of a 58524  
city, local, or exempted village school district or causing 58525  
revenue to be foregone by the district, including any compensation 58526  
to be paid to the school district pursuant to section 5709.82 of 58527  
the Revised Code, those terms also shall be forwarded in writing 58528  
to the director of development along with the copy of the 58529  
agreement forwarded under this division. 58530

(I) After an agreement is entered into, the enterprise shall 58531  
file with each personal property tax return required to be filed, 58532  
or annual report that is required to be filed under section 58533  
5727.08 of the Revised Code, while the agreement is in effect, an 58534  
informational return, on a form prescribed by the tax commissioner 58535  
for that purpose, setting forth separately the property, and 58536  
related costs and values, exempted from taxation under the 58537  
agreement. 58538

(J) Enterprises may agree to give preference to residents of 58539  
the zone within which the agreement applies relative to residents 58540  
of this state who do not reside in the zone when hiring new 58541  
employees under the agreement. 58542

(K) An agreement entered into under this section may include 58543  
a provision requiring the enterprise to create one or more 58544  
temporary internship positions for students enrolled in a course 58545  
of study at a school or other educational institution in the 58546  
vicinity, and to create a scholarship or provide another form of 58547  
educational financial assistance for students holding such a 58548  
position in exchange for the student's commitment to work for the 58549  
enterprise at the completion of the internship. 58550

**Sec. 5709.632.** (A)(1) The legislative authority of a 58551  
municipal corporation defined by the United States office of 58552  
management and budget as a central city of a metropolitan 58553  
statistical area may, in the manner set forth in section 5709.62 58554  
of the Revised Code, designate one or more areas in the municipal 58555  
corporation as a proposed enterprise zone. 58556

(2) With the consent of the legislative authority of each 58557  
affected municipal corporation or of a board of township trustees, 58558  
a board of county commissioners may, in the manner set forth in 58559  
section 5709.62 of the Revised Code, designate one or more areas 58560  
in one or more municipal corporations or in unincorporated areas 58561  
of the county as proposed urban jobs and enterprise zones, except 58562  
that a board of county commissioners may designate no more than 58563  
one area within a township, or within adjacent townships, as a 58564  
proposed urban jobs and enterprise zone. 58565

(3) The legislative authority or board of county 58566  
commissioners may petition the director of development for 58567  
certification of the area as having the characteristics set forth 58568  
in division (A)(3) of section 5709.61 of the Revised Code. Within 58569

sixty days after receiving such a petition, the director shall 58570  
determine whether the area has the characteristics set forth in 58571  
that division and forward the findings to the legislative 58572  
authority or board of county commissioners. If the director 58573  
certifies the area as having those characteristics and thereby 58574  
certifies it as a zone, the legislative authority or board may 58575  
enter into agreements with enterprises under division (B) of this 58576  
section. Any enterprise wishing to enter into an agreement with a 58577  
legislative authority or board of commissioners under this section 58578  
and satisfying one of the criteria described in divisions (B)(1) 58579  
to (5) of this section shall submit a proposal to the legislative 58580  
authority or board on the form prescribed under division (B) of 58581  
section 5709.62 of the Revised Code and shall review and update 58582  
the estimates and listings required by the form in the manner 58583  
required under that division. The legislative authority or board 58584  
may, on a separate form and at any time, require any additional 58585  
information necessary to determine whether an enterprise is in 58586  
compliance with an agreement and to collect the information 58587  
required to be reported under section 5709.68 of the Revised Code. 58588

(B) Prior to entering into an agreement with an enterprise, 58589  
the legislative authority or board of county commissioners shall 58590  
determine whether the enterprise submitting the proposal is 58591  
qualified by financial responsibility and business experience to 58592  
create and preserve employment opportunities in the zone and to 58593  
improve the economic climate of the municipal corporation or 58594  
municipal corporations or the unincorporated areas in which the 58595  
zone is located and to which the proposal applies, and whether the 58596  
enterprise satisfies one of the following criteria: 58597

(1) The enterprise currently has no operations in this state 58598  
and, subject to approval of the agreement, intends to establish 58599  
operations in the zone; 58600

(2) The enterprise currently has operations in this state 58601

and, subject to approval of the agreement, intends to establish 58602  
operations at a new location in the zone that would not result in 58603  
a reduction in the number of employee positions at any of the 58604  
enterprise's other locations in this state; 58605

(3) The enterprise, subject to approval of the agreement, 58606  
intends to relocate operations, currently located in another 58607  
state, to the zone; 58608

(4) The enterprise, subject to approval of the agreement, 58609  
intends to expand operations at an existing site in the zone that 58610  
the enterprise currently operates; 58611

(5) The enterprise, subject to approval of the agreement, 58612  
intends to relocate operations, currently located in this state, 58613  
to the zone, and the director of development has issued a waiver 58614  
for the enterprise under division (B) of section 5709.633 of the 58615  
Revised Code. 58616

(C) If the legislative authority or board determines that the 58617  
enterprise is so qualified and satisfies one of the criteria 58618  
described in divisions (B)(1) to (5) of this section, the 58619  
legislative authority or board may, after complying with section 58620  
5709.83 of the Revised Code and on or before ~~June 30, 2004~~ October  
15, 2009, and, in the case of a board of commissioners, with the 58621  
consent of the legislative authority of each affected municipal 58622  
corporation or of the board of township trustees, enter into an 58623  
agreement with the enterprise under which the enterprise agrees to 58624  
establish, expand, renovate, or occupy a facility in the zone and 58625  
hire new employees, or preserve employment opportunities for 58626  
existing employees, in return for the following incentives: 58627  
58628

(1) When the facility is located in a municipal corporation, 58629  
a legislative authority or board of commissioners may enter into 58630  
an agreement for one or more of the incentives provided in 58631  
division (C) of section 5709.62 of the Revised Code, subject to 58632

division (D) of that section; 58633

(2) When the facility is located in an unincorporated area, a 58634  
board of commissioners may enter into an agreement for one or more 58635  
of the incentives provided in divisions (B)(1)(b), (B)(2), and 58636  
(B)(3) of section 5709.63 of the Revised Code, subject to division 58637  
(C) of that section. 58638

(D) All agreements entered into under this section shall be 58639  
in the form prescribed under section 5709.631 of the Revised Code. 58640  
After an agreement under this section is entered into, if the 58641  
legislative authority or board of county commissioners revokes its 58642  
designation of the zone, or if the director of development revokes 58643  
the zone's certification, any entitlements granted under the 58644  
agreement shall continue for the number of years specified in the 58645  
agreement. 58646

(E) Except as otherwise provided in this division, an 58647  
agreement entered into under this section shall require that the 58648  
enterprise pay an annual fee equal to the greater of one per cent 58649  
of the dollar value of incentives offered under the agreement or 58650  
five hundred dollars; provided, however, that if the value of the 58651  
incentives exceeds two hundred fifty thousand dollars, the fee 58652  
shall not exceed two thousand five hundred dollars. The fee shall 58653  
be payable to the legislative authority or board of commissioners 58654  
once per year for each year the agreement is effective on the days 58655  
and in the form specified in the agreement. Fees paid shall be 58656  
deposited in a special fund created for such purpose by the 58657  
legislative authority or board and shall be used by the 58658  
legislative authority or board exclusively for the purpose of 58659  
complying with section 5709.68 of the Revised Code and by the tax 58660  
incentive review council created under section 5709.85 of the 58661  
Revised Code exclusively for the purposes of performing the duties 58662  
prescribed under that section. The legislative authority or board 58663  
may waive or reduce the amount of the fee charged against an 58664

enterprise, but such waiver or reduction does not affect the 58665  
obligations of the legislative authority or board or the tax 58666  
incentive review council to comply with section 5709.68 or 5709.85 58667  
of the Revised Code, respectively. 58668

(F) With the approval of the legislative authority of a 58669  
municipal corporation or the board of township trustees of a 58670  
township in which a zone is designated under division (A)(2) of 58671  
this section, the board of county commissioners may delegate to 58672  
that legislative authority or board any powers and duties of the 58673  
board to negotiate and administer agreements with regard to that 58674  
zone under this section. 58675

(G) When an agreement is entered into pursuant to this 58676  
section, the legislative authority or board of commissioners 58677  
authorizing the agreement shall forward a copy of the agreement to 58678  
the director of development and to the tax commissioner within 58679  
fifteen days after the agreement is entered into. If any agreement 58680  
includes terms not provided for in section 5709.631 of the Revised 58681  
Code affecting the revenue of a city, local, or exempted village 58682  
school district or causing revenue to be foregone by the district, 58683  
including any compensation to be paid to the school district 58684  
pursuant to section 5709.82 of the Revised Code, those terms also 58685  
shall be forwarded in writing to the director of development along 58686  
with the copy of the agreement forwarded under this division. 58687

(H) After an agreement is entered into, the enterprise shall 58688  
file with each personal property tax return required to be filed 58689  
while the agreement is in effect, an informational return, on a 58690  
form prescribed by the tax commissioner for that purpose, setting 58691  
forth separately the property, and related costs and values, 58692  
exempted from taxation under the agreement. 58693

(I) An agreement entered into under this section may include 58694  
a provision requiring the enterprise to create one or more 58695  
temporary internship positions for students enrolled in a course 58696

of study at a school or other educational institution in the 58697  
vicinity, and to create a scholarship or provide another form of 58698  
educational financial assistance for students holding such a 58699  
position in exchange for the student's commitment to work for the 58700  
enterprise at the completion of the internship. 58701

**Sec. 5709.64.** (A) If an enterprise has been granted an 58702  
incentive for the current calendar year under an agreement entered 58703  
pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised 58704  
Code, it may apply, on or before the thirtieth day of April of 58705  
that year, to the director of development, on a form prescribed by 58706  
the director, for a tax incentive qualification certificate. The 58707  
enterprise qualifies for an initial certificate if, on or before 58708  
the last day of the calendar year immediately preceding that in 58709  
which application is made, it satisfies all of the following 58710  
requirements: 58711

(1) The enterprise has established, expanded, renovated, or 58712  
occupied a facility pursuant to the agreement under section 58713  
5709.62, 5709.63, or 5709.632 of the Revised Code. 58714

(2) The enterprise has hired new employees to fill nonretail 58715  
positions at the facility, at least twenty-five per cent of whom 58716  
at the time they were employed were at least one of the following: 58717

(a) Unemployed persons who had resided at least six months in 58718  
the county in which the enterprise's project site is located; 58719

(b) JPTA eligible employees who had resided at least six 58720  
months in the county in which the enterprise's project site is 58721  
located; 58722

(c) Participants of the Ohio works first program under 58723  
Chapter 5107. of the Revised Code or the prevention, retention, 58724  
and contingency program under Chapter 5108. of the Revised Code or 58725  
recipients of general assistance under former Chapter 5113. of the 58726

Revised Code, ~~disability~~ financial assistance under Chapter 5115. 58727  
of the Revised Code, or unemployment compensation benefits who had 58728  
resided at least six months in the county in which the 58729  
enterprise's project site is located; 58730

(d) Handicapped persons, as defined under division (A) of 58731  
section 3304.11 of the Revised Code, who had resided at least six 58732  
months in the county in which the enterprise's project site is 58733  
located; 58734

(e) Residents for at least one year of a zone located in the 58735  
county in which the enterprise's project site is located. 58736

The director of development shall, by rule, establish 58737  
criteria for determining what constitutes a nonretail position at 58738  
a facility. 58739

(3) The average number of positions attributable to the 58740  
enterprise in the municipal corporation during the calendar year 58741  
immediately preceding the calendar year in which application is 58742  
made exceeds the maximum number of positions attributable to the 58743  
enterprise in the municipal corporation during the calendar year 58744  
immediately preceding the first year the enterprise satisfies the 58745  
requirements set forth in divisions (A)(1) and (2) of this 58746  
section. If the enterprise is engaged in a business which, because 58747  
of its seasonal nature, customarily enables the enterprise to 58748  
operate at full capacity only during regularly recurring periods 58749  
of the year, the average number of positions attributable to the 58750  
enterprise in the municipal corporation during each period of the 58751  
calendar year immediately preceding the calendar year in which 58752  
application is made must exceed only the maximum number of 58753  
positions attributable to the enterprise in each corresponding 58754  
period of the calendar year immediately preceding the first year 58755  
the enterprise satisfies the requirements of divisions (A)(1) and 58756  
(2) of this section. The director of development shall, by rule, 58757  
prescribe methods for determining whether an enterprise is engaged 58758



in a seasonal business and for determining the length of the 58759  
corresponding periods to be compared. 58760

(4) The enterprise has not closed or reduced employment at 58761  
any place of business in the state for the primary purpose of 58762  
establishing, expanding, renovating, or occupying a facility. The 58763  
legislative authority of any municipal corporation or the board of 58764  
county commissioners of any county that concludes that an 58765  
enterprise has closed or reduced employment at a place of business 58766  
in that municipal corporation or county for the primary purpose of 58767  
establishing, expanding, renovating, or occupying a facility in a 58768  
zone may appeal to the director to determine whether the 58769  
enterprise has done so. Upon receiving such an appeal, the 58770  
director shall investigate the allegations and make such a 58771  
determination before issuing an initial or renewal tax incentive 58772  
qualification certificate under this section. 58773

Within sixty days after receiving an application under this 58774  
division, the director shall review, investigate, and verify the 58775  
application and determine whether the enterprise qualifies for a 58776  
certificate. The application shall include an affidavit executed 58777  
by the applicant verifying that the enterprise satisfies the 58778  
requirements of division (A)(2) of this section, and shall contain 58779  
such information and documents as the director requires, by rule, 58780  
to ascertain whether the enterprise qualifies for a certificate. 58781  
If the director finds the enterprise qualified, the director shall 58782  
issue a tax incentive qualification certificate, which shall bear 58783  
as its date of issuance the thirtieth day of June of the year of 58784  
application, and shall state that the applicant is entitled to 58785  
receive, for the taxable year that includes the certificate's date 58786  
of issuance, the tax incentives provided under section 5709.65 of 58787  
the Revised Code with regard to the facility to which the 58788  
certificate applies. If an enterprise is issued an initial 58789  
certificate, it may apply, on or before the thirtieth day of April 58790

of each succeeding calendar year for which it has been granted an 58791  
incentive under an agreement entered pursuant to section 5709.62, 58792  
5709.63, or 5709.632 of the Revised Code, for a renewal 58793  
certificate. Subsequent to its initial certification, the 58794  
enterprise qualifies for up to three successive renewal 58795  
certificates if, on or before the last day of the calendar year 58796  
immediately preceding that in which the application is made, it 58797  
satisfies all the requirements of divisions (A)(1) to (4) of this 58798  
section, and neither the zone's designation nor the zone's 58799  
certification has been revoked prior to the fifteenth day of June 58800  
of the year in which the application is made. The application 58801  
shall include an affidavit executed by the applicant verifying 58802  
that the enterprise satisfies the requirements of division (A)(2) 58803  
of this section. An enterprise with ten or more supervisory 58804  
personnel at the facility to which a certificate applies qualifies 58805  
for any subsequent renewal certificates only if it meets all of 58806  
the foregoing requirements and, in addition, at least ten per cent 58807  
of those supervisory personnel are employees who, when first hired 58808  
by the enterprise, satisfied at least one of the criteria 58809  
specified in divisions (A)(2)(a) to (e) of this section. If the 58810  
enterprise qualifies, a renewal certificate shall be issued 58811  
bearing as its date of issuance the thirtieth day of June of the 58812  
year of application. The director shall send copies of the initial 58813  
certificate, and each renewal certificate, by certified mail, to 58814  
the enterprise, the tax commissioner, the board of county 58815  
commissioners, and the chief executive of the municipal 58816  
corporation in which the facility to which the certificate applies 58817  
is located. 58818

(B) If the director determines that an enterprise is not 58819  
qualified for an initial or renewal tax incentive qualification 58820  
certificate, the director shall send notice of this determination, 58821  
specifying the reasons for it, by certified mail, to the 58822  
applicant, the tax commissioner, the board of county 58823

commissioners, and the chief executive of the municipal 58824  
corporation in which the facility to which the certificate would 58825  
have applied is located. Within thirty days after receiving such a 58826  
notice, an enterprise may request, in writing, a hearing before 58827  
the director for the purpose of reviewing the application and the 58828  
reasons for the determination. Within sixty days after receiving a 58829  
request for a hearing, the director shall afford one and, within 58830  
thirty days after the hearing, shall issue a redetermination of 58831  
the enterprise's qualification for a certificate. If the 58832  
enterprise is found to be qualified, the director shall proceed in 58833  
the manner provided under division (A) of this section. If the 58834  
enterprise is found to be unqualified, the director shall send 58835  
notice of this finding, by certified mail, to the applicant, the 58836  
tax commissioner, the board of county commissioners, and the chief 58837  
executive of the municipal corporation in which the facility to 58838  
which the certificate would have applied is located. The 58839  
director's redetermination that an enterprise is unqualified may 58840  
be appealed to the board of tax appeals in the manner provided 58841  
under section 5717.02 of the Revised Code. 58842

**Sec. 5711.18.** (A) As used in this section, "qualifying 58843  
manufacturing property" means machinery or equipment satisfying 58844  
both of the following: 58845

(1) The machinery or equipment would qualify as a thing 58846  
transferred and used primarily in a manufacturing operation for 58847  
the purposes of division (E)(9) of section 5739.01 and section 58848  
5739.011 of the Revised Code. 58849

(2) The machinery or equipment was first placed in service in 58850  
this state on or after January 1, 2004, and has not been listed 58851  
for taxation under this chapter, and was not required to have been 58852  
so listed, for any tax year before tax year 2004. 58853

(B) In the case of accounts receivable, the book value 58854

thereof less book reserves shall be listed and shall be taken as 58855  
the true value thereof unless the assessor finds that such net 58856  
book value is greater or less than the then true value of such 58857  
accounts receivable in money. ~~In~~ 58858

(C) In the case of personal property used in business, the 58859  
~~book value thereof less book depreciation at such time shall be~~ 58860  
~~listed, and such depreciated book value~~ one of the following 58861  
values shall be listed and shall be taken as the true value of 58862  
such property, unless the assessor finds that such ~~depreciated~~ 58863  
~~book~~ value is greater or less than the then true value of such 58864  
property in money. ~~Claim:~~ 58865

(1) In the case of personal property other than qualifying 58866  
manufacturing property, the book value of the property less book 58867  
depreciation at the time of listing; 58868

(2) In the case of qualifying manufacturing property, the 58869  
depreciated book value at which the property would be valued under 58870  
division (C)(1) of this section if the property were valued at the 58871  
lowest valuation percentage for the class life assigned to such 58872  
property, as prescribed under the rules adopted by the tax 58873  
commissioner for the purpose of valuing personal property used in 58874  
business. 58875

(D) Claims for any deduction from net book value of accounts 58876  
receivable or depreciated book value of personal property must be 58877  
made in writing by the taxpayer at the time of making the 58878  
taxpayer's return; ~~and when such.~~ If the return is made to the 58879  
county auditor who is required by sections 5711.01 to 5711.36~~7~~ 58880  
~~inclusive,~~ of the Revised Code~~7~~ to transmit it to the tax 58881  
commissioner for assessment, the auditor shall, as deputy of the 58882  
commissioner, investigate such claim and shall enter thereon, or 58883  
attach thereto, in such form as the commissioner prescribes, the 58884  
auditor's findings and recommendations with respect ~~thereto; when~~ 58885  
~~such~~ to the claim. If the return is made to the tax commissioner, 58886

~~such~~ the claim for deduction from depreciated book value of 58887  
personal property shall be referred to the auditor, as such 58888  
deputy, of each county in which the property affected thereby is 58889  
listed for investigation and report. 58890

(E) Any change in the method of determining true value, as 58891  
prescribed by the tax commissioner on a prospective basis, shall 58892  
not be admissible in any judicial or administrative action or 58893  
proceeding as evidence of value with regard to prior years' taxes. 58894  
Information about the business, property, or transactions of any 58895  
taxpayer obtained by the commissioner for the purpose of adopting 58896  
or modifying any such method shall not be subject to discovery or 58897  
disclosure. 58898

**Sec. 5711.22.** (A) Deposits not taxed at the source shall be 58899  
listed and assessed at their amount in dollars on the day they are 58900  
required to be listed. Moneys shall be listed and assessed at the 58901  
amount thereof in dollars on hand on the day that they are 58902  
required to be listed. In listing investments, the amount of the 58903  
income yield of each for the calendar year next preceding the date 58904  
of listing shall, except as otherwise provided in this chapter, be 58905  
stated in dollars and cents and the assessment thereof shall be at 58906  
the amount of such income yield; but any property defined as 58907  
investments in either division (A) or (B) of section 5701.06 of 58908  
the Revised Code that has not been outstanding for the full 58909  
calendar year next preceding the date of listing, except shares of 58910  
stock of like kind as other shares of the same corporation 58911  
outstanding for the full calendar year next preceding the date of 58912  
listing, or which has yielded no income during such calendar year 58913  
shall be listed and assessed as unproductive investments, at their 58914  
true value in money on the day that such investments are required 58915  
to be listed. 58916

Credits and other taxable intangibles shall be listed and 58917

assessed at their true value in money on the day as of which the 58918  
same are required to be listed. 58919

Shares of stock of a bank holding company, as defined in 58920  
Title 12 U.S.C.A., section 1841, that are required to be listed 58921  
for taxation under this division and upon which dividends were 58922  
paid during the year of their issuance, which dividends are 58923  
subject to taxation under the provisions of Chapter 5747. of the 58924  
Revised Code, shall be exempt from the intangibles tax for the 58925  
year immediately succeeding their issuance. If such shares bear 58926  
dividends the first calendar year after their issuance, which 58927  
dividends are subject to taxation under the provisions of Chapter 58928  
5747. of the Revised Code, it shall be deemed that the 58929  
nondelinquent intangible property tax pursuant to division (A) of 58930  
section 5707.04 of the Revised Code was paid on those dividends 58931  
paid that first calendar year after the issuance of the shares. 58932

(B)(1) Boilers, machinery, equipment, and personal property 58933  
the true value of which is determined under division (B) of 58934  
section 5711.21 of the Revised Code shall be listed and assessed 58935  
at an amount equal to the sum of the products determined under 58936  
divisions (B)(1)(a), (b), and (c) of this section. 58937

(a) Multiply the portion of the true value determined under 58938  
division (B)(1) of section 5711.21 of the Revised Code by the 58939  
assessment rate in division (F) of this section; 58940

(b) Multiply the portion of the true value determined under 58941  
division (B)(2) of section 5711.21 of the Revised Code by the 58942  
assessment rate in section 5727.111 of the Revised Code that is 58943  
applicable to the production equipment of an electric company; 58944

(c) Multiply the portion of the true value determined under 58945  
division (B)(3) of section 5711.21 of the Revised Code by the 58946  
assessment rate in section 5727.111 of the Revised Code that is 58947  
applicable to the property of an electric company that is not 58948

production equipment. 58949

(2) Personal property leased to a public utility or 58950  
interexchange telecommunications company as defined in section 58951  
5727.01 of the Revised Code and used directly in the rendition of 58952  
a public utility service as defined in division (P) of section 58953  
5739.01 of the Revised Code shall be listed and assessed at the 58954  
same percentage of true value in money that such property is 58955  
required to be assessed by section 5727.111 of the Revised Code if 58956  
owned by the public utility or interexchange telecommunications 58957  
company. 58958

(C)(1) Merchandise or an agricultural product shipped from 58959  
outside this state and held in this state in a warehouse or a 58960  
place of storage without further manufacturing or processing and 58961  
for storage only and for shipment outside this state, but that is 58962  
taxable because it does not qualify as "not used in business in 58963  
this state" under division (B)(1) or (2) of section 5701.08 of the 58964  
Revised Code, shall be listed and assessed at a rate of 58965  
twenty-five one-hundredths of its true value in money until 58966  
reduced in accordance with the following schedule: 58967

(a) For any year, subtract five one-hundredths from the rate 58968  
at which such property was required to be listed and assessed in 58969  
the preceding year, if the total statewide collection of all real 58970  
and tangible personal property taxes for the second preceding year 58971  
exceeded the total statewide collection of all real and tangible 58972  
personal property taxes for the third preceding year by more than 58973  
the greater of four per cent or the rate of increase from the 58974  
third to the second preceding years in the average consumer price 58975  
index (all urban consumers, all items) prepared by the bureau of 58976  
labor statistics of the United States department of labor; 58977

(b) If no reduction in the assessment rate is made for a 58978  
year, the rate is the same as for the preceding year. 58979

(2) Each year until the year the assessment rate equals zero, 58980  
the tax commissioner shall determine the assessment rate required 58981  
under this division and shall notify all county auditors of that 58982  
rate. 58983

(3) Notwithstanding provisions to the contrary in division 58984  
(B) of section 5701.08 of the Revised Code, during and after the 58985  
year for which the assessment rate as calculated under this 58986  
division equals zero, any merchandise or agricultural product 58987  
shipped from outside this state and held in this state in any 58988  
warehouse or place of storage, whether public or private, without 58989  
further manufacturing or processing and for storage only and for 58990  
shipment outside this state to any person for any purpose is not 58991  
used in business in this state for property tax purposes. 58992

(D)(1) Merchandise or an agricultural product owned by a 58993  
qualified out-of-state person shipped from outside this state and 58994  
held in this state in a public warehouse without further 58995  
manufacturing or processing and for temporary storage only and for 58996  
shipment inside this state, but that is taxable because it does 58997  
not qualify as "not used in business in this state" under division 58998  
(B)(1) or (2) of section 5701.08 of the Revised Code, shall be 58999  
listed and assessed at a rate of twenty-five one-hundredths of its 59000  
true value in money until reduced in accordance with the following 59001  
schedule: 59002

(a) For any year, subtract five one-hundredths from the rate 59003  
at which such property was required to be listed and assessed in 59004  
the preceding year, if the total statewide collection of all real 59005  
and tangible personal property taxes for the second preceding year 59006  
exceeded the total statewide collection of all real and tangible 59007  
personal property taxes for the third preceding year by more than 59008  
the greater of four per cent or the rate of increase from the 59009  
third to the second preceding years in the average consumer price 59010  
index (all urban consumers, all items) prepared by the bureau of 59011



labor statistics of the United States department of labor; 59012

(b) If no reduction in the assessment rate is made for a 59013  
year, the rate is the same as for the preceding year. 59014

(2) Each year until the year the assessment rate equals zero, 59015  
the tax commissioner shall determine the assessment rate required 59016  
under this division and shall notify all county auditors of that 59017  
rate. 59018

(3) Notwithstanding provisions to the contrary in division 59019  
(B) of section 5701.08 of the Revised Code, during and after the 59020  
year for which the assessment rate as calculated under this 59021  
division equals zero, any merchandise or agricultural product 59022  
described in division (D)(1) of this section is not used in 59023  
business in this state for property tax purposes. 59024

(4) As used in division (D) of this section: 59025

(a) "Qualified out-of-state person" means a person that does 59026  
not own, lease, or use property, other than merchandise or an 59027  
agricultural product described in this division, in this state, 59028  
and does not have employees, agents, or representatives in this 59029  
state; 59030

(b) "Public warehouse" means a warehouse in this state that 59031  
is not subject to the control of or under the supervision of the 59032  
owner of the merchandise or agricultural product stored in it, or 59033  
staffed by the owner's employees, and from which the property is 59034  
to be shipped inside this state. 59035

(E) Personal property valued pursuant to section 5711.15 of 59036  
the Revised Code and personal property required to be listed on 59037  
the average basis by division (A) of section 5711.16 of the 59038  
Revised Code, except property described in division (C) or (D) of 59039  
this section, business fixtures, and furniture not held for sale 59040  
in the course of business, shall be listed and assessed at the 59041  
rate of twenty-five per cent of its true value in money until 59042

reduced to zero in accordance with the following schedule: 59043

(1) Beginning in tax year 2002 and for each of tax years 59044  
2003, and 2004, ~~2005, and 2006,~~ subtract one percentage point from 59045  
the rate at which the property was required to be listed and 59046  
assessed in the preceding year, if the total statewide collection 59047  
of tangible personal property taxes for the second preceding year 59048  
exceeded the total statewide collection of tangible personal 59049  
property taxes for the third preceding year. If no reduction in 59050  
the assessment rate is made for a year, the rate is the same as 59051  
for the preceding year. ~~For purposes of this division, total~~ 59052  
~~statewide collection of tangible personal property taxes excludes~~ 59053  
~~taxes collected from public utilities and interexchange~~ 59054  
~~telecommunications companies on property that is determined to be~~ 59055  
~~taxable pursuant to section 5727.06 of the Revised Code.~~ 59056

(2) In tax year 2007, ~~the assessment rate shall be the lesser~~ 59057  
~~of twenty four per cent or one percentage point less than the rate~~ 59058  
~~at which property was required to be listed and assessed the~~ 59059  
~~preceding year. Each 2005 and each~~ tax year thereafter, the 59060  
assessment rate shall be reduced by ~~one~~ the lesser of two 59061  
percentage ~~point until it equals zero per cent not later than tax~~ 59062  
~~year 2031~~ points or the assessment rate for the preceding year, if 59063  
the total statewide collection of tangible personal property taxes 59064  
for the second preceding year exceeded the total statewide 59065  
collection of tangible personal property taxes for the third 59066  
preceding year. If no reduction in the assessment rate is made for 59067  
a year, the rate is the same as for the preceding year. During and 59068  
after the tax year that the assessment rate equals zero, the 59069  
property described in division (E) of this section shall not be 59070  
listed for taxation. 59071

Each year until the year the assessment rate equals zero, the 59072  
tax commissioner shall determine the assessment rate required 59073  
under this division and shall notify all county auditors of that 59074

rate. 59075

For purposes of division (E) of this section, "total statewide collection of tangible person property taxes" excludes taxes collected from public utilities and interexchange telecommunications companies on property that is determined to be taxable pursuant to section 5727.06 of the Revised Code. 59076  
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(F) Unless otherwise provided by law, all other personal property used in business that has not been legally regarded as an improvement on land and considered in arriving at the value of the real property assessed for taxation shall be listed and assessed at the rate of twenty-five per cent of its true value in money. 59081  
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**Sec. 5713.07.** The county auditor, at the time of making the assessment of real property subject to taxation, shall enter in a separate list pertinent descriptions of all burying grounds, public schoolhouses, houses used exclusively for public worship, institutions of purely public charity, real property used exclusively for a home for the aged, as defined in section 5701.13 of the Revised Code, ~~and~~ public buildings and property used exclusively for any public purpose, and any other property, with the lot or tract of land on which such house, institution, ~~or~~ public building, or other property is situated, and which ~~are exempt~~ have been exempted from taxation by either the tax commissioner under section 5715.27 of the Revised Code or by the housing officer under section 3735.67 of the Revised Code. ~~He~~ The auditor shall value such houses, buildings, property, and lots and tracts of land at their taxable value in the same manner as ~~he~~ the auditor is required to value other real property, designating in each case the township, municipal corporation, and number of the school district, or the name or designation of the school, religious society, or institution to which each house, lot, or tract belongs. If such property is held and used for other public 59086  
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purposes, ~~he~~ the auditor shall state by whom or how it is held. 59106

**Sec. 5713.08.** (A) The county auditor shall make a list of all 59107  
real and personal property in the auditor's county, including 59108  
money, credits, and investments in bonds, stocks, or otherwise, 59109  
which is exempted from taxation. Such list shall show the name of 59110  
the owner, the value of the property exempted, and a statement in 59111  
brief form of the ground on which such exemption has been granted. 59112  
It shall be corrected annually by adding thereto the items of 59113  
property which have been exempted during the year, and by striking 59114  
therefrom the items which in the opinion of the auditor have lost 59115  
their right of exemption and which have been reentered on the 59116  
taxable list. No additions shall be made to such exempt lists and 59117  
no additional items of property shall be exempted from taxation 59118  
without the consent of the tax commissioner as is provided for in 59119  
section 5715.27 of the Revised Code, ~~but when or without the~~ 59120  
consent of the housing officer under section 3735.67 of the 59121  
Revised Code. When any personal property or endowment fund of an 59122  
institution has once been held by the commissioner to be properly 59123  
exempt from taxation, it is not necessary to obtain the 59124  
commissioner's consent to the exemption of additional property or 59125  
investments of the same kind belonging to the same institution, 59126  
but such property shall appear on the abstract filed annually with 59127  
the commissioner. The commissioner may revise at any time the list 59128  
in every county so that no property is improperly or illegally 59129  
exempted from taxation. The auditor shall follow the orders of the 59130  
commissioner given under this section. An abstract of such list 59131  
shall be filed annually with the commissioner, on a form approved 59132  
by the commissioner, and a copy thereof shall be kept on file in 59133  
the office of each auditor for public inspection. 59134

The commissioner shall not consider an application for 59135  
exemption of property unless the application has attached thereto 59136  
a certificate executed by the county treasurer certifying one of 59137

the following: 59138

(1) That all taxes, assessments, interest, and penalties 59139  
levied and assessed against the property sought to be exempted 59140  
have been paid in full to the date upon which the application for 59141  
exemption is filed, except for such taxes, interest, and penalties 59142  
that may be remitted under division (B) of this section; 59143

(2) That the applicant has entered into a valid delinquent 59144  
tax contract with the county treasurer pursuant to division (A) of 59145  
section 323.31 of the Revised Code to pay all of the delinquent 59146  
taxes, assessments, interest, and penalties charged against the 59147  
property, except for such taxes, interest, and penalties that may 59148  
be remitted under division (B) of this section. If the auditor 59149  
receives notice under section 323.31 of the Revised Code that such 59150  
a written delinquent tax contract has become void, the auditor 59151  
shall strike such property from the list of exempted property and 59152  
reenter such property on the taxable list. If property is removed 59153  
from the exempt list because a written delinquent tax contract has 59154  
become void, current taxes shall first be extended against that 59155  
property on the general tax list and duplicate of real and public 59156  
utility property for the tax year in which the auditor receives 59157  
the notice required by division (A) of section 323.31 of the 59158  
Revised Code that the delinquent tax contract has become void or, 59159  
if that notice is not timely made, for the tax year in which falls 59160  
the latest date by which the treasurer is required by such section 59161  
to give such notice. A county auditor shall not remove from any 59162  
tax list and duplicate the amount of any unpaid delinquent taxes, 59163  
assessments, interest, or penalties owed on property that is 59164  
placed on the exempt list pursuant to this division. 59165

(3) That a tax certificate has been issued under section 59166  
5721.32 or 5721.33 of the Revised Code with respect to the 59167  
property that is the subject of the application, and the tax 59168  
certificate is outstanding. 59169

(B) Any taxes, interest, and penalties which have become a  
lien after the property was first used for the exempt purpose, but  
in no case prior to the date of acquisition of the title to the  
property by the applicant, may be remitted by the commissioner,  
except as is provided in division (A) of section 5713.081 of the  
Revised Code.

(C) Real property acquired by the state in fee simple is  
exempt from taxation from the date of acquisition of title or date  
of possession, whichever is the earlier date, provided that all  
taxes, interest, and penalties as provided in the apportionment  
provisions of section 319.20 of the Revised Code have been paid to  
the date of acquisition of title or date of possession by the  
state, whichever is earlier. The proportionate amount of taxes  
that are a lien but not yet determined, assessed, and levied for  
the year in which the property is acquired, shall be remitted by  
the county auditor for the balance of the year from date of  
acquisition of title or date of possession, whichever is earlier.  
This section shall not be construed to authorize the exemption of  
such property from taxation or the remission of taxes, interest,  
and penalties thereon until all private use has terminated.

**Sec. 5713.081.** (A) No application for real property tax  
exemption and tax remission shall be filed with, or considered by,  
the tax commissioner in which tax remission is requested for more  
than three tax years, and the commissioner shall not remit more  
than three years' ~~delinquent~~ taxes, penalties, and interest.

(B) All taxes, penalties, and interest, that have been  
delinquent for more than three years, appearing on the general tax  
list and duplicate of real property which have been levied and  
assessed against parcels of real property owned by the state, any  
political subdivision, or any other entity whose ownership of real  
property would constitute public ownership, shall be collected by

the county auditor of the county where the real property is 59201  
located. Such ~~official~~ auditor shall deduct from each distribution 59202  
made by ~~him~~ the auditor, the amount necessary to pay the tax 59203  
delinquency from any revenues or funds to the credit of the state, 59204  
any political subdivision, or any other entity whose ownership of 59205  
real property would constitute public ownership thereof, passing 59206  
under ~~his~~ the auditor's control, or which come into ~~his~~ the 59207  
auditor's possession, and such deductions shall be made on a 59208  
continuing basis until all delinquent taxes, penalties, and 59209  
interest noted in this section have been paid. 59210

(C) As used in division (B) of this section, "political 59211  
subdivision" includes townships, municipalities, counties, school 59212  
districts, boards of education, all state and municipal 59213  
universities, park boards, and any other entity whose ownership of 59214  
real property would constitute public ownership. 59215

**Sec. 5713.082.** (A) Whenever the county auditor reenters an 59216  
item of property to the tax list as provided in section 5713.08 of 59217  
the Revised Code and there has been no conveyance of the property 59218  
between separate entities, the auditor shall send notice by 59219  
certified mail to the owner of the property that it is now subject 59220  
to property taxation as a result of such action. The auditor shall 59221  
send the notice at the same time ~~he~~ the auditor certifies the real 59222  
property tax duplicate to the county treasurer. The notice shall 59223  
describe the property and indicate that the owner may reapply for 59224  
tax exemption by filing an application for exemption as provided 59225  
in section 5715.27 of the Revised Code, and that failure to file 59226  
such an application within the proper time period will result in 59227  
the owner having to pay the taxes even if the property continued 59228  
to be used for an exempt purpose. 59229

(B) If the auditor failed to send the notice required by this 59230  
section, and if the owner of the property subsequently files an 59231

application for tax exemption for the property for the current tax 59232  
year, the tax commissioner may grant exemption to the property, 59233  
and ~~he~~ the commissioner shall remit all ~~unpaid~~ taxes and penalties 59234  
for each prior year since the property was reentered on the tax 59235  
list notwithstanding the provisions of division (A) of section 59236  
5713.081 of the Revised Code. 59237

**Sec. 5713.10.** The county engineer shall appoint the necessary 59238  
~~draftsmen~~ draftsperson and fix the salary thereof, subject to the 59239  
approval of the board of county commissioners. 59240

The salaries of the assistants shall be paid out of the 59241  
county treasury in the same manner as the salaries of other county 59242  
officers are paid or may be paid out of the real estate assessment 59243  
fund created under section 325.31 of the Revised Code. 59244

**Sec. 5713.30.** As used in sections 5713.31 to 5713.37 and 59245  
5715.01 of the Revised Code: 59246

(A) "Land devoted exclusively to agricultural use" means: 59247

(1) Tracts, lots, or parcels of land totaling not less than 59248  
ten acres that, during the three calendar years prior to the year 59249  
in which application is filed under section 5713.31 of the Revised 59250  
Code, and through the last day of May of such year, were devoted 59251  
exclusively to commercial animal or poultry husbandry, 59252  
aquaculture, apiculture, the production for a commercial purpose 59253  
of timber, field crops, tobacco, fruits, vegetables, nursery 59254  
stock, ornamental trees, sod, or flowers, or the growth of timber 59255  
for a noncommercial purpose, if the land on which the timber is 59256  
grown is contiguous to or part of a parcel of land under common 59257  
ownership that is otherwise devoted exclusively to agricultural 59258  
use, or were devoted to and qualified for payments or other 59259  
compensation under a land retirement or conservation program under 59260  
an agreement with an agency of the federal government; 59261



(2) Tracts, lots, or parcels of land totaling less than ten 59262  
acres that, during the three calendar years prior to the year in 59263  
which application is filed under section 5713.31 of the Revised 59264  
Code and through the last day of May of such year, were devoted 59265  
exclusively to commercial animal or poultry husbandry, 59266  
aquaculture, apiculture, the production for a commercial purpose 59267  
of field crops, tobacco, fruits, vegetables, timber, nursery 59268  
stock, ornamental trees, sod, or flowers where such activities 59269  
produced an average yearly gross income of at least twenty-five 59270  
hundred dollars during such three-year period or where there is 59271  
evidence of an anticipated gross income of such amount from such 59272  
activities during the tax year in which application is made, or 59273  
were devoted to and qualified for payments or other compensation 59274  
under a land retirement or conservation program under an agreement 59275  
with an agency of the federal government; 59276

(3) A tract, lot, or parcel of land taxed under sections 59277  
5713.22 to 5713.26 of the Revised Code is not land devoted 59278  
exclusively to agricultural use; 59279

(4) Tracts, lots, or parcels of land, or portions thereof 59280  
~~which that~~, during the previous three consecutive calendar years 59281  
have been designated as land devoted exclusively to agricultural 59282  
use, but such land has been lying idle or fallow for up to one 59283  
year and no action has occurred to such land that is either 59284  
inconsistent with the return of it to agricultural production or 59285  
converts the land devoted exclusively to agricultural use as 59286  
defined in this section. Such land shall remain designated as land 59287  
devoted exclusively to agricultural use provided that beyond one 59288  
year, but less than three years, the landowner proves good cause 59289  
as determined by the board of revision. 59290

"Land devoted exclusively to agricultural use" includes 59291  
tracts, lots, or parcels of land or portions thereof that are used 59292  
for conservation practices, provided that the tracts, lots, or 59293

parcels of land or portions thereof comprise twenty-five per cent 59294  
or less of the total of the tracts, lots, or parcels of land that 59295  
satisfy the criteria established in division (A)(1), (2), or (4) 59296  
of this section together with the tracts, lots, or parcels of land 59297  
or portions thereof that are used for conservation practices. 59298

(B) "Conversion of land devoted exclusively to agricultural 59299  
use" means any of the following: 59300

(1) The failure of the owner of land devoted exclusively to 59301  
agricultural use during the next preceding calendar year to file a 59302  
renewal application under section 5713.31 of the Revised Code 59303  
without good cause as determined by the board of revision; 59304

(2) The failure of the new owner of such land to file an 59305  
initial application under that section without good cause as 59306  
determined by the board of revision; 59307

(3) The failure of such land or portion thereof to qualify as 59308  
land devoted exclusively to agricultural use for the current 59309  
calendar year as requested by an application filed under such 59310  
section; 59311

(4) The failure of the owner of the land described in 59312  
division (A)(4) of this section to act on such land in a manner 59313  
that is consistent with the return of the land to agricultural 59314  
production after three years. 59315

(C) "Tax savings" means the difference between the dollar 59316  
amount of real property taxes levied in any year on land valued 59317  
and assessed in accordance with its current agricultural use value 59318  
and the dollar amount of real property taxes ~~which~~ that would have 59319  
been levied upon such land if it had been valued and assessed for 59320  
such year in accordance with Section 2 of Article XII, Ohio 59321  
Constitution. 59322

(D) "Owner" includes, but is not limited to, any person 59323  
owning a fee simple, fee tail, or life estate, or a buyer on a 59324

land installment contract. 59325

(E) "Conservation practices" includes, but is not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops to abate soil erosion. 59326  
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(F) "Wetlands" has the same meaning as in section 6111.02 of the Revised Code. 59331  
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**Sec. 5715.27.** (A) The Except as provided in section 3735.67 of the Revised Code, the owner of any property may file an 59333  
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application with the tax commissioner, on forms prescribed by the 59335  
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commissioner, requesting that such property be exempted from 59336  
59337  
taxation and that ~~unpaid~~ taxes and penalties be remitted as 59337  
59338  
provided in division (B) of section 5713.08 of the Revised Code. 59338

(B) The board of education of any school district may request 59339  
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the tax commissioner to provide it with notification of 59340  
59341  
applications for exemption from taxation for property located 59341  
59342  
within that district. If so requested, the commissioner shall send 59342  
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to the board for the quarters ending on the last day of March, 59343  
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June, September, and December of each year, reports that contain 59344  
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sufficient information to enable the board to identify each 59345  
59346  
property that is the subject of an exemption application, 59346  
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including, but not limited to, the name of the property owner or 59347  
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applicant, the address of the property, and the auditor's parcel 59348  
59349  
number. The commissioner shall mail the reports on or about the 59349  
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fifteenth day of the month following the end of the quarter. 59350

(C) A board of education that has requested notification 59351  
59352  
under division (B) of this section may, with respect to any 59352  
59353  
application for exemption of property located in the district and 59353  
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included in the commissioner's most recent report provided under 59354  
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that division, file a statement with the commissioner and with the 59355

applicant indicating its intent to submit evidence and participate 59356  
in any hearing on the application. The statements shall be filed 59357  
prior to the first day of the third month following the end of the 59358  
quarter in which that application was docketed by the 59359  
commissioner. A statement filed in compliance with this division 59360  
entitles the district to submit evidence and to participate in any 59361  
hearing on the property and makes the district a party for 59362  
purposes of sections 5717.02 to 5717.04 of the Revised Code in any 59363  
appeal of the commissioner's decision to the board of tax appeals. 59364

(D) The commissioner shall not hold a hearing on or grant or 59365  
deny an application for exemption of property in a school district 59366  
whose board of education has requested notification under division 59367  
(B) of this section until the end of the period within which the 59368  
board may submit a statement with respect to that application 59369  
under division (C) of this section. The commissioner may act upon 59370  
an application at any time prior to that date upon receipt of a 59371  
written waiver from each such board of education, or, in the case 59372  
of exemptions authorized by section 725.02, 1728.10, ~~3735.67,~~ 59373  
5709.41, 5709.62, or 5709.63 of the Revised Code, upon the request 59374  
of the property owner. Failure of a board of education to receive 59375  
the report required in division (B) of this section shall not void 59376  
an action of the commissioner with respect to any application. The 59377  
commissioner may extend the time for filing a statement under 59378  
division (C) of this section. 59379

(E) A complaint may also be filed with the commissioner by 59380  
any person, board, or officer authorized by section 5715.19 of the 59381  
Revised Code to file complaints with the county board of revision 59382  
against the continued exemption of any property granted exemption 59383  
by the commissioner under this section. 59384

(F) An application for exemption and a complaint against 59385  
exemption shall be filed prior to the thirty-first day of December 59386  
of the tax year for which exemption is requested or for which the 59387

liability of ~~any~~ the property to taxation in that year is 59388  
requested. The commissioner shall consider such application or 59389  
complaint in accordance with procedures established by the 59390  
commissioner, determine whether the property is subject to 59391  
taxation or exempt therefrom, and certify the commissioner's 59392  
findings to the auditor, who shall correct the tax list and 59393  
duplicate accordingly. If a tax certificate has been sold under 59394  
section 5721.32 or 5721.33 of the Revised Code with respect to 59395  
property for which an exemption has been requested, the tax 59396  
commissioner shall also certify the findings to the county 59397  
treasurer of the county in which the property is located. 59398

(G) Applications and complaints, and documents of any kind 59399  
related to applications and complaints, filed with the tax 59400  
commissioner under this section, are public records within the 59401  
meaning of section 149.43 of the Revised Code. 59402

(H) If the commissioner determines that the use of property 59403  
or other facts relevant to the taxability of property that is the 59404  
subject of an application for exemption or a complaint under this 59405  
section has changed while the application or complaint was 59406  
pending, the commissioner may make the determination under 59407  
division (F) of this section separately for each tax year 59408  
beginning with the year in which the application or complaint was 59409  
filed or the year for which remission of ~~unpaid~~ taxes under 59410  
division (B) of section 5713.08 of the Revised Code was requested, 59411  
and including each subsequent tax year during which the 59412  
application or complaint is pending before the commissioner. 59413

**Sec. 5717.011.** (A) As used in this chapter, "tax 59414  
administrator" has the same meaning as in section 718.01 of the 59415  
Revised Code. 59416

(B) Appeals from a municipal board of appeal created under 59417  
section 718.11 of the Revised Code may be taken by the taxpayer to 59418

the board of tax appeals or may be taken by the taxpayer to a 59419  
court of common pleas as otherwise provided by law. If the 59420  
taxpayer elects to make its appeal to the board of tax appeals, 59421  
the appeal shall be taken by the filing of a notice of appeal with 59422  
the board of tax appeals, the municipal board of appeal, and the 59423  
tax administrator. The notice of appeal shall be filed within 59424  
sixty days after the day the taxpayer receives notice of the 59425  
decision issued under section 718.11 of the Revised Code. The 59426  
notice of appeal may be filed in person or by certified mail, 59427  
express mail, or authorized delivery service as provided in 59428  
section 5703.056 of the Revised Code. If the notice of appeal is 59429  
filed by certified mail, express mail, or authorized delivery 59430  
service as provided in section 5703.056 of the Revised Code, the 59431  
date of the United States postmark placed on the sender's receipt 59432  
by the postal service or the date of receipt recorded by the 59433  
authorized delivery service shall be treated as the date of 59434  
filing. The notice of appeal shall have attached thereto and 59435  
incorporated therein by reference a true copy of the decision 59436  
issued under section 718.11 of the Revised Code to the taxpayer 59437  
and shall specify the errors therein complained of, but failure to 59438  
attach a copy of such notice and incorporate it by reference in 59439  
the notice of appeal does not invalidate the appeal. 59440

(C) Upon the filing of a notice of appeal, the municipal 59441  
board of appeal shall certify to the board of tax appeals a 59442  
transcript of the record of the proceedings before it, together 59443  
with all evidence considered by it in connection therewith. Such 59444  
appeals may be heard by the board at its office in Columbus or in 59445  
the county where the appellant resides, or it may cause its 59446  
examiners to conduct such hearings and to report to it their 59447  
findings for affirmation or rejection. The board may order the 59448  
appeal to be heard upon the record and the evidence certified to 59449  
it by the administrator, but upon the application of any 59450  
interested party the board shall order the hearing of additional 59451

evidence, and the board may make such investigation concerning the 59452  
appeal as it considers proper. 59453

**Sec. 5717.03. (A)** A decision of the board of tax appeals on 59454  
an appeal filed with it pursuant to section 5717.01, 5717.011, or 59455  
5717.02 of the Revised Code shall be entered of record on the 59456  
journal together with the date when the order is filed with the 59457  
secretary for journalization. 59458

(B) In case of an appeal from a decision of a county board of 59459  
revision, the board of tax appeals shall determine the taxable 59460  
value of the property whose valuation or assessment by the county 59461  
board of revision is complained of, or in the event the complaint 59462  
and appeal is against a discriminatory valuation, shall determine 59463  
a valuation which shall correct such discrimination, and shall 59464  
determine the liability of the property for taxation, if that 59465  
question is in issue, and ~~it~~ the board of tax appeals's decision 59466  
and the date when it was filed with the secretary for 59467  
journalization shall be certified by ~~it~~ the board by certified 59468  
mail to all persons who were parties to the appeal before ~~it~~ the 59469  
board, to the person in whose name the property is listed, or 59470  
sought to be listed, if such person is not a party to the appeal, 59471  
to the county auditor of the county in which the property involved 59472  
in the appeal is located, and to the tax commissioner. 59473

In correcting a discriminatory valuation, the board of tax 59474  
appeals shall increase or decrease the value of the property whose 59475  
valuation or assessment by the county board of revision is 59476  
complained of by a per cent or amount which will cause such 59477  
property to be listed and valued for taxation by an equal and 59478  
uniform rule. 59479

(C) In the case of an appeal from a review, redetermination, 59480  
or correction of a tax assessment, valuation, determination, 59481  
finding, computation, or order of the tax commissioner, the order 59482

of the board of tax appeals and the date of the entry thereof upon 59483  
its journal shall be certified by ~~it~~ the board by certified mail 59484  
to all persons who were parties to the appeal before ~~it~~ the board, 59485  
the person in whose name the property is listed or sought to be 59486  
listed, if the decision determines the valuation or liability of 59487  
property for taxation and if such person is not a party to the 59488  
appeal, the taxpayer or other person to whom notice of the tax 59489  
assessment, valuation, determination, finding, computation, or 59490  
order, or correction or redetermination thereof, by the tax 59491  
commissioner was by law required to be given, the director of 59492  
budget and management, if the revenues affected by such decision 59493  
would accrue primarily to the state treasury, and the county 59494  
auditors of the counties to the undivided general tax funds of 59495  
which the revenues affected by such decision would primarily 59496  
accrue. 59497

(D) In the case of an appeal from a municipal board of appeal 59498  
created under section 718.11 of the Revised Code, the order of the 59499  
board of tax appeals and the date of the entry thereof upon the 59500  
board's journal shall be certified by the board by certified mail 59501  
to all persons who were parties to the appeal before the board. 59502

(E) In the case of all other appeals or applications filed 59503  
with and determined by the board ~~its~~, the board's order and the 59504  
date when ~~it~~ the order was filed by the secretary for 59505  
journalization shall be certified by ~~it~~ the board by certified 59506  
mail to the person who is a party to such appeal or application, 59507  
to such persons as the law requires, and to such other persons as 59508  
the board deems proper. 59509

(F) The orders of the board may affirm, reverse, vacate, 59510  
modify, or remand the tax assessments, valuations, determinations, 59511  
findings, computations, or orders complained of in the appeals 59512  
determined by ~~it~~ the board, and ~~its~~ the board's decision shall 59513  
become final and conclusive for the current year unless reversed, 59514



vacated, or modified as provided in section 5717.04 of the Revised Code. When an order of the board becomes final the tax commissioner and all officers to whom such decision has been certified shall make the changes in their tax lists or other records which the decision requires.

(G) If the board finds that issues not raised on the appeal are important to a determination of a controversy, ~~it~~ the board may remand the cause for an administrative determination and the issuance of a new tax assessment, valuation, determination, finding, computation, or order, unless the parties stipulate to the determination of such other issues without remand. An order remanding the cause is a final order, which may be appealed to the court of appeals in Franklin county.

**Sec. 5719.07.** Subject to the rules prescribed by the tax commissioner, a county treasurer charged with the collection of delinquent taxes may issue a certificate of release of the lien provided for in section 5719.04 of the Revised Code if the amount secured thereby has been paid or omitted from the delinquent tax list and duplicate pursuant to section 5719.06 of the Revised Code. The treasurer shall issue a certificate of partial discharge of any part of the real property subject to the lien ~~if he finds~~ after finding that the value of the part of the property remaining subject to the lien is at least double the amount of the delinquent taxes and all prior liens upon such real property. Such certificate shall be filed and recorded with the county recorder of the county in which the notice of lien has been filed, for which recording the recorder shall charge a base fee of two dollars for services and a housing trust fund fee of two dollars pursuant to section 317.36 of the Revised Code.

**Sec. 5727.111.** The taxable property of each public utility, except a railroad company, and of each interexchange

telecommunications company shall be assessed at the following 59546  
percentages of true value: 59547

(A)(1) Except as provided in division (A)(2) of this section, 59548  
fifty per cent in the case of a rural electric company; 59549

(2) For tax year 2001 and thereafter, fifty per cent in the 59550  
case of the taxable transmission and distribution property of a 59551  
rural electric company, and twenty-five per cent for all its other 59552  
taxable property; 59553

(B) In the case of a telephone or telegraph company, 59554  
twenty-five per cent for taxable property first subject to 59555  
taxation in this state for tax year 1995 or thereafter, and 59556  
~~eighty-eight per cent~~ the following for all other taxable 59557  
property+: 59558

(1) For tax years prior to 2005, eighty-eight per cent; 59559

(2) For tax year 2005, sixty-seven per cent; 59560

(3) For tax year 2006, forty-six per cent; 59561

(4) For tax year 2007 and thereafter, twenty-five per cent. 59562

~~(C)(1) Except as provided in division (C)(2) of this section,~~ 59563  
~~eighty-eight per cent in the case of a natural gas company;~~ 59564

~~(2) For tax year 2001 and thereafter, twenty-five~~ Twenty-five 59565  
per cent in the case of a natural gas company. 59566

(D) Eighty-eight per cent in the case of a pipe-line, 59567  
water-works, or heating company; 59568

(E)(1) Except as provided in division (E)(2) or (3) of this 59569  
section, one hundred per cent in the case of the taxable 59570  
production equipment of an electric company and eighty-eight per 59571  
cent for all its other taxable property; 59572

(2) For tax year 2001 and thereafter, eighty-eight per cent 59573  
in the case of the taxable transmission and distribution property 59574

of an electric company, and twenty-five per cent for all its other taxable property;

(3) Property listed and assessed under divisions (B)(1) and (2) of section 5711.22 of the Revised Code and leased to an electric company shall continue to be assessed at one hundred per cent for production equipment and eighty-eight per cent for all such other taxable property until January 1, 2002.

(F) Twenty-five per cent in the case of an interexchange telecommunications company;

(G) Twenty-five per cent in the case of a water transportation company.

**Sec. 5727.30.** (A) Except as provided in divisions (B) and, (C), and (D) of this section, each public utility, except railroad companies, shall be subject to an annual excise tax, as provided by sections 5727.31 to 5727.62 of the Revised Code, for the privilege of owning property in this state or doing business in this state during the twelve-month period next succeeding the period upon which the tax is based. The tax shall be imposed against each such public utility that, on the first day of such twelve-month period, owns property in this state or is doing business in this state, and the lien for the tax, including any penalties and interest accruing thereon, shall attach on such day to the property of the public utility in this state.

(B) An electric company's or a rural electric company's gross receipts received after April 30, 2001, are not subject to the annual excise tax imposed by this section.

(C) A natural gas company's gross receipts received after April 30, 2000, are not subject to the annual excise tax imposed by this section.

(D) A telephone company's gross receipts billed to customers

after June 30, 2004, are not subject to the annual excise tax 59605  
imposed by this section. Notwithstanding any other provision of 59606  
law, gross receipts billed by a telephone company to customers 59607  
prior to July 1, 2004, shall be included in the telephone 59608  
company's annual statement filed on or before August 1, 2004, 59609  
which shall be the last statement or report filed under section 59610  
5727.31 of the Revised Code by a telephone company. A telephone 59611  
company shall not deduct from its gross receipts included in that 59612  
last statement any receipts it was unable to collect from its 59613  
customers for the period of July 1, 2003, to June 30, 2004. 59614

**Sec. 5727.32.** (A) For the purpose of the tax imposed by 59615  
section 5727.30 of the Revised Code, the statement required by 59616  
section 5727.31 of the Revised Code shall contain: 59617

(1) The name of the company; 59618

(2) The nature of the company, whether a person, association, 59619  
or corporation, and under the laws of what state or country 59620  
organized; 59621

(3) The location of its principal office; 59622

(4) The name and post-office address of the president, 59623  
secretary, auditor, treasurer, and superintendent or general 59624  
manager; 59625

(5) The name and post-office address of the chief officer or 59626  
managing agent of the company in this state; 59627

(6) The amount of the excise taxes paid or to be paid with 59628  
the reports made during the current calendar year as provided by 59629  
section 5727.31 of the Revised Code; 59630

(7) In the case of telegraph ~~and telephone~~ companies: 59631

(a) The gross receipts from all sources, whether messages, 59632  
telephone tolls, rentals, or otherwise, for business done within 59633  
this state, including all sums earned or charged, whether actually 59634

received or not, for the year ending on the thirtieth day of June, 59635  
and the company's proportion of gross receipts for business done 59636  
by it within this state in connection with other companies, firms, 59637  
corporations, persons, or associations, but excluding all of the 59638  
following: 59639

(i) All of the receipts derived wholly from interstate 59640  
business or business done for or with the federal government; 59641

(ii) The receipts of amounts billed on behalf of other 59642  
entities; 59643

~~(iii) The receipts from sales to other telephone companies 59644  
for resale; 59645~~

~~(iv) The receipts from sales to providers of 59646  
telecommunications service for resale, receipts from incoming or 59647  
outgoing wide area transmission service or wide area transmission 59648  
type service, including eight hundred or eight hundred type 59649  
service, and receipts from private communications service. 59650~~

~~As used in this division, "receipts from sales to other 59651  
telephone companies for resale" and "receipts from sales to 59652  
providers of telecommunications service for resale" include but 59653  
are not limited to, receipts of carrier access charges. "Carrier 59654  
access charges" means compensation paid to the taxpayer telephone 59655  
company by another telephone company or by a provider of 59656  
telecommunications service for the use of the taxpayer's 59657  
facilities to originate or terminate telephone calls or 59658  
telecommunications service. 59659~~

(b) The total gross receipts for such period from business 59660  
done within this state. 59661

(8) In the case of all public utilities subject to the tax 59662  
imposed by section 5727.30 of the Revised Code, except telegraph 59663  
and telephone companies: 59664

(a) The gross receipts of the company, actually received, 59665  
from all sources for business done within this state for the year 59666  
next preceding the first day of May, including the company's 59667  
proportion of gross receipts for business done by it within this 59668  
state in connection with other companies, firms, corporations, 59669  
persons, or associations, but excluding all both of the following: 59670

(i) Receipts from interstate business or business done for 59671  
the federal government; 59672

(ii) Receipts from sales to another public utility for 59673  
resale, provided such other public utility is subject to the tax 59674  
levied by section 5727.24 or 5727.30 of the Revised Code; 59675

~~(iii) Receipts from the transmission or delivery of 59676  
electricity to or for a rural electric company, provided that the 59677  
electricity that has been so transmitted or delivered is for 59678  
resale by the rural electric company. This division does not apply 59679  
to tax years 2002 and thereafter. 59680~~

~~(iv) Receipts of an electric company, derived from the 59681  
provision of electricity and other services to a qualified former 59682  
owner of the production facilities that generated the electricity 59683  
from which those receipts were derived. This division does not 59684  
apply to tax years 2002 and thereafter. As used in this division, 59685  
a "qualified former owner" means a person who meets both of the 59686  
following conditions: 59687~~

~~(I) On or before October 11, 1991, the person had sold to an 59688  
electric company part of the production facility at which the 59689  
electricity is generated, and, for at least twenty years prior to 59690  
that sale, the facility was used to generate electricity, but it 59691  
was not owned in whole or in part during that period by an 59692  
electric company. 59693~~

~~(II) At the time the electric company provided the 59694  
electricity or other services for which the exclusion is claimed, 59695~~

~~the person, or a successor or assign of the person, owned not less than twenty per cent of the production facility and the rights to not less than twenty per cent of the production of that facility; and the person, or a successor or assign of the person, engaged primarily in a business other than providing electricity to others.~~

~~(v)~~ Receipts of a combined company derived from operating as a natural gas company that is subject to the tax imposed by section 5727.24 of the Revised Code.

(b) The total gross receipts of the company, for the year next preceding the first day of May, in this state from business done within the state.

(B) The reports required by section 5727.31 of the Revised Code shall contain:

(1) The name and principal mailing address of the company;

(2) The total amount of the gross receipts excise taxes charged or levied as based upon its last preceding annual statement filed prior to the first day of January of the year in which such report is filed;

(3) The amount of the excise taxes due with the report as provided by section 5727.31 of the Revised Code.

**Sec. 5727.33.** (A) For the purpose of computing the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code, the entire gross receipts actually received from all sources for business done within this state are taxable gross receipts, excluding the receipts described in divisions (B), (C), and (D) ~~and (E)~~ of this section. The gross receipts for the tax year of each telegraph ~~and telephone~~ company shall be computed for the period of the first day of July prior to the tax year to the thirtieth day of June of the tax year. The gross receipts of each

natural gas company, including a combined company's taxable gross receipts attributed to a natural gas company activity, shall be computed in the manner required by section 5727.25 of the Revised Code. The gross receipts for the tax year of any other public utility subject to section 5727.30 of the Revised Code shall be computed for the period of the first day of May prior to the tax year to the thirtieth day of April of the tax year.

(B) In ascertaining and determining the gross receipts of each public utility subject to this section, the following gross receipts are excluded:

(1) All receipts derived wholly from interstate business;

(2) All receipts derived wholly from business done for or with the federal government;

~~(3) All receipts derived wholly from the transmission or delivery of electricity to or for a rural electric company, provided that the electricity that has been so transmitted or delivered is for resale by the rural electric company. This division does not apply to tax years 2002 and thereafter.~~

~~(4)~~ All receipts from the sale of merchandise;

~~(5)~~<sup>(4)</sup> All receipts from sales to other public utilities, except railroad, and telegraph, ~~and telephone~~ companies, for resale, provided the other public utility is subject to the tax levied by section 5727.24 or 5727.30 of the Revised Code.

~~(C) In ascertaining and determining the gross receipts of a telephone company, the following gross receipts are excluded:~~

~~(1) Receipts of amounts billed on behalf of other entities;~~

~~(2) Receipts from sales to other telephone companies for resale, as defined in division (A)(7) of section 5727.32 of the Revised Code;~~

~~(3) Receipts from incoming or outgoing wide area transmission~~



~~service or wide area transmission type service, including eight 59756  
hundred or eight hundred type service; 59757~~

~~(4) Receipts from private communications service as described 59758  
in division (AA)(2) of section 5739.01 of the Revised Code; 59759~~

~~(5) Receipts from sales to providers of telecommunications 59760  
service for resale, as defined in division (A)(7) of section 59761  
5727.32 of the Revised Code. 59762~~

~~(D) In ascertaining and determining the gross receipts of an 59763  
electric company, receipts derived from the provision of 59764  
electricity and other services to a qualified former owner of the 59765  
production facilities that generated the electricity from which 59766  
those receipts were derived are excluded. This division does not 59767  
apply to tax years 2002 and thereafter. As used in this division, 59768  
a "qualified former owner" means a person who meets both of the 59769  
following conditions: 59770~~

~~(1) On or before October 11, 1991, the person had sold to an 59771  
electric company part of the production facility at which the 59772  
electricity is generated, and, for at least twenty years prior to 59773  
that sale, the facility was used to generate electricity, but it 59774  
was not owned in whole or part during that period by an electric 59775  
company. 59776~~

~~(2) At the time the electric company provided the electricity 59777  
or other services for which the exclusion is claimed, the person, 59778  
or a successor or assign of the person, owned not less than a 59779  
twenty per cent ownership of the production facility and the 59780  
rights to not less than twenty per cent of the production of that 59781  
facility. 59782~~

~~(E)(C) In ascertaining and determining the gross receipts of 59783  
a natural gas company, receipts billed on behalf of other entities 59784  
are excluded. The tax imposed by section 5729.811 of the Revised 59785  
Code, along with transportation and billing and collection fees 59786~~

charged to other entities, shall be included in the gross receipts of a natural gas company.

~~(F)~~(D) In ascertaining and determining the gross receipts of a combined company subject to the tax imposed by section 5727.30 of the Revised Code, all receipts derived from operating as a natural gas company that are subject to the tax imposed by section 5727.24 of the Revised Code are excluded.

~~(G)~~(E) Except as provided in division ~~(H)~~(F) of this section, the amount ascertained by the commissioner under this section, less a deduction of twenty-five thousand dollars, shall be the taxable gross receipts of such companies for business done within this state for that year.

~~(H)~~(F) The amount ascertained under this section, less the following deduction, shall be the taxable gross receipts of a natural gas company or combined company subject to the tax imposed by section 5727.24 of the Revised Code for business done within this state:

(1) For a natural gas company that files quarterly returns of the tax imposed by section 5727.24 of the Revised Code, six thousand two hundred fifty dollars for each quarterly return;

(2) For a natural gas company that files an annual return of the tax imposed by section 5727.24 of the Revised Code, twenty-five thousand dollars for each annual return;

(3) For a combined company, twenty-five thousand dollars on the annual statement filed under section 5727.31 of the Revised Code. A combined company shall not be entitled to a deduction in computing gross receipts subject to the tax imposed by section 5727.24 of the Revised Code.

**Sec. 5727.56.** Any public utility whose articles of incorporation or license certificate to do or transact business in

this state has expired or has been canceled or revoked by the 59817  
secretary of state, as provided by law for failure to make any 59818  
report or return or to pay any tax or fee, upon payment to the 59819  
secretary of state of any additional fees and penalties required 59820  
to be paid to ~~him~~ the secretary of state, and upon the filing with 59821  
the secretary of state of a certificate from the tax commissioner 59822  
that it has complied with all the requirements of law as to 59823  
franchise or excise tax reports and paid all franchise or excise 59824  
taxes, fees, or penalties due thereon for every year of its 59825  
delinquency, and upon the payment to the secretary of state of an 59826  
additional fee of ten dollars, shall be reinstated and again 59827  
entitled to exercise its rights, privileges, and franchises in 59828  
this state, and the secretary of state shall cancel the entry of 59829  
cancellation or expiration to exercise its rights, privileges, and 59830  
franchises. If the reinstatement is not made within one year from 59831  
the date of the cancellation of its articles of incorporation or 59832  
date of the cancellation or expiration of its license to do 59833  
business, and it appears that articles of incorporation or license 59834  
certificate have been issued to a corporation of the same or 59835  
similar name, the applicant for reinstatement shall be required by 59836  
the secretary of state, as a condition prerequisite to such 59837  
reinstatement, to amend its articles by changing its name. A 59838  
certificate of reinstatement may be filed in the county recorder's 59839  
office of any county in the state, for which the recorder shall 59840  
charge and collect a base fee of three dollars for services and a 59841  
housing trust fund fee of three dollars pursuant to section 317.36 59842  
of the Revised Code. 59843

If a domestic public utility applying for reinstatement has 59844  
not previously designated an agent upon whom process may be served 59845  
as required by section 1701.07 of the Revised Code, such public 59846  
utility shall at the time of reinstatement and as a prerequisite 59847  
thereto designate an agent in accordance with such section. 59848

Any officer, shareholder, creditor, or receiver of any such public utility may at any time take all steps required by this section to effect such reinstatement, and in such case the designation of an agent upon whom process may be served shall not be a prerequisite to the reinstatement of the public utility.

**Sec. 5728.04. (A)** It is unlawful for any person to operate a commercial car with three or more axles when operated alone or as part of a commercial tandem, a commercial car with two axles that is to be operated as part of a commercial tandem with a gross vehicle weight or a registered gross vehicle weight exceeding twenty-six thousand pounds, or a commercial tractor when operated alone or as part of a commercial tractor combination or commercial tandem on a public highway ~~without~~ under either of the following circumstances:

(1) Without a valid fuel use permit for such commercial car or commercial tractor.

(2) With a suspended or surrendered fuel use permit for such commercial car or commercial tractor.

**(B)** The judge or magistrate of any court finding any person guilty of unlawfully operating a commercial car or commercial tractor as provided for in this section shall immediately notify the tax commissioner of such violation and shall transmit to the tax commissioner the name and the permanent address of the owner of the commercial car or commercial tractor operated in violation of this section, the registration number, the state of registration, and the certificate of title number of the commercial car or commercial tractor. The commercial car or commercial tractor involved in a violation of division (A)(1) or (2) of this section may be detained until a valid fuel use permit is obtained or reinstated.

**Sec. 5728.06.** (A) For the following purposes, an excise tax 59879  
is hereby imposed on the use of motor fuel to operate on the 59880  
public highways of this state a commercial car with three or more 59881  
axles operated alone or as part of a commercial tandem, a 59882  
commercial car with two axles operated as part of a commercial 59883  
tandem having a gross vehicle weight or registered gross vehicle 59884  
weight exceeding twenty-six thousand pounds, or a commercial 59885  
tractor operated alone or as part of a commercial tractor 59886  
combination or commercial tandem: to provide revenue for 59887  
maintaining the state highway system, to widen existing surfaces 59888  
on such highways, to resurface such highways, to enable the 59889  
counties of the state properly to plan for, maintain, and repair 59890  
their roads, to enable the municipal corporations to plan, 59891  
construct, reconstruct, repave, widen, maintain, repair, clear, 59892  
and clean public highways, roads, and streets; to pay that portion 59893  
of the construction cost of a highway project that a county, 59894  
township, or municipal corporation normally would be required to 59895  
pay, but that the director of transportation, pursuant to division 59896  
(B) of section 5531.08 of the Revised Code, determines instead 59897  
will be paid from moneys in the highway operating fund; to 59898  
maintain and repair bridges and viaducts; to purchase, erect, and 59899  
maintain street and traffic signs and markers; to purchase, erect, 59900  
and maintain traffic lights and signals; to pay the costs 59901  
apportioned to the public under section 4907.47 of the Revised 59902  
Code; and to supplement revenue already available for such 59903  
purposes, to distribute equitably among those persons using the 59904  
privilege of driving motor vehicles upon such highways and streets 59905  
the cost of maintaining and repairing the same, and to pay the 59906  
interest, principal, and charges on bonds and other obligations 59907  
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 59908  
and sections 5528.30 and 5528.31 of the Revised Code. The tax is 59909  
imposed in the same amount as the motor fuel tax imposed under 59910

Chapter 5735. of the Revised Code plus an additional tax of three 59911  
cents per gallon of motor fuel used before July 1, 2004, ~~and an~~ 59912  
provided that the additional tax ~~of~~ shall be reduced to two cents 59913  
per gallon of motor fuel used ~~before~~ from July 1, 2004 through 59914  
June 30, 2005, as determined by the gallons consumed while 59915  
operated on the public highways of this state. Subject to section 59916  
5735.292 of the Revised Code, on and after July 1, 2005, the tax 59917  
shall be imposed in the same amount as the motor fuel tax imposed 59918  
under Chapter 5735. of the Revised Code. Payment of the fuel use 59919  
tax shall be made by the purchase of motor fuel within Ohio of 59920  
such gallons as is equivalent to the gallons consumed while 59921  
operating such a motor vehicle on the public highways of this 59922  
state, or by direct remittance to the treasurer of state with the 59923  
fuel use tax return filed pursuant to section 5728.08 of the 59924  
Revised Code. 59925

Any person subject to the tax imposed under this section who 59926  
purchases motor fuel in this state for use in another state in 59927  
excess of the amount consumed while operating such motor vehicle 59928  
on the public highways of this state shall be allowed a credit 59929  
against the tax imposed by this section or a refund equal to the 59930  
motor fuel tax paid to this state on such excess. No such credit 59931  
or refund shall be allowed for taxes paid to any state that 59932  
imposes a tax on motor fuel purchased or obtained in this state 59933  
and used on the highways of such other state but does not allow a 59934  
similar credit or refund for the tax paid to this state on motor 59935  
fuel purchased or acquired in the other state and used on the 59936  
public highways of this state. 59937

The tax commissioner is authorized to determine whether such 59938  
credits or refunds are available and to prescribe such rules as 59939  
are required for the purpose of administering this chapter. 59940

(B) Within sixty days after the last day of each month, the 59941  
tax commissioner shall determine the amount of motor fuel tax 59942

allowed as a credit against the tax imposed by this section. The 59943  
commissioner shall certify the amount to the director of budget 59944  
and management and the treasurer of state, who shall credit the 59945  
amount in accordance with section 5728.08 of the Revised Code from 59946  
current revenue arising from the tax levied by section 5735.05 of 59947  
the Revised Code. 59948

(C) The owner of each commercial car and commercial tractor 59949  
subject to sections 5728.01 to 5728.14 of the Revised Code is 59950  
liable for the payment of the full amount of the taxes imposed by 59951  
this section. 59952

An owner who is a person regularly engaged, for compensation, 59953  
in the business of leasing or renting motor vehicles without 59954  
furnishing drivers may designate that the lessee of a motor 59955  
vehicle leased for a period of thirty days or more shall report 59956  
and pay the tax incurred during the duration of the lease. An 59957  
owner who is an independent contractor that furnishes both the 59958  
driver and motor vehicle, may designate that the person so 59959  
furnished with the driver and motor vehicle for a period of thirty 59960  
days or more shall report and pay the tax incurred during that 59961  
period. An independent contractor that is not an owner, but that 59962  
furnishes both the driver and motor vehicle and that has been 59963  
designated by the owner of the motor vehicle to report and pay the 59964  
tax, may designate that the person so furnished with driver and 59965  
motor vehicle for a period of thirty days or more shall report and 59966  
pay the tax incurred during that period. 59967

**Sec. 5728.99.** (A)(1) Except as provided in division (A)(2) of 59968  
this section, whoever violates any provision of sections 5728.01 59969  
to 5728.14 of the Revised Code, or any rule promulgated by the tax 59970  
commissioner under the authority of any provision of those 59971  
sections, for the violation of which no penalty is provided 59972  
elsewhere, shall be fined not less than twenty-five nor more than 59973

one hundred dollars. 59974

(2) Division (A)(1) of this section does not apply to the 59975  
filing of any false or fraudulent return, application, or permit 59976  
under section 5728.02, 5728.03, or 5728.08 of the Revised Code. 59977  
The filing of any false or fraudulent return, application, or 59978  
permit under any of those sections is a violation of section 59979  
2921.13 of the Revised Code. 59980

(B)(1) Whoever violates division (A)(1) of section 5728.04 of 59981  
the Revised Code is guilty of a misdemeanor of the fourth degree. 59982

(2) Whoever violates division (A)(2) of section 5728.04 of 59983  
the Revised Code is guilty of a felony of the fifth degree. 59984

**Sec. 5733.04.** As used in this chapter: 59985

(A) "Issued and outstanding shares of stock" applies to 59986  
nonprofit corporations, as provided in section 5733.01 of the 59987  
Revised Code, and includes, but is not limited to, membership 59988  
certificates and other instruments evidencing ownership of an 59989  
interest in such nonprofit corporations, and with respect to a 59990  
financial institution that does not have capital stock, "issued 59991  
and outstanding shares of stock" includes, but is not limited to, 59992  
ownership interests of depositors in the capital employed in such 59993  
an institution. 59994

(B) "Taxpayer" means a corporation subject to the tax imposed 59995  
by section 5733.06 of the Revised Code. 59996

(C) "Resident" means a corporation organized under the laws 59997  
of this state. 59998

(D) "Commercial domicile" means the principal place from 59999  
which the trade or business of the taxpayer is directed or 60000  
managed. 60001

(E) "Taxable year" means the period prescribed by division 60002  
(A) of section 5733.031 of the Revised Code upon the net income of 60003



which the value of the taxpayer's issued and outstanding shares of 60004  
stock is determined under division (B) of section 5733.05 of the 60005  
Revised Code or the period prescribed by division (A) of section 60006  
5733.031 of the Revised Code that immediately precedes the date as 60007  
of which the total value of the corporation is determined under 60008  
division (A) or (C) of section 5733.05 of the Revised Code. 60009

(F) "Tax year" means the calendar year in and for which the 60010  
tax imposed by section 5733.06 of the Revised Code is required to 60011  
be paid. 60012

(G) "Internal Revenue Code" means the "Internal Revenue Code 60013  
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 60014

(H) "Federal income tax" means the income tax imposed by the 60015  
Internal Revenue Code. 60016

(I) Except as provided in section 5733.058 of the Revised 60017  
Code, "net income" means the taxpayer's taxable income before 60018  
operating loss deduction and special deductions, as required to be 60019  
reported for the taxpayer's taxable year under the Internal 60020  
Revenue Code, subject to the following adjustments: 60021

(1)(a) Deduct any net operating loss incurred in any taxable 60022  
years ending in 1971 or thereafter, but exclusive of any net 60023  
operating loss incurred in taxable years ending prior to January 60024  
1, 1971. This deduction shall not be allowed in any tax year 60025  
commencing before December 31, 1973, but shall be carried over and 60026  
allowed in tax years commencing after December 31, 1973, until 60027  
fully utilized in the next succeeding taxable year or years in 60028  
which the taxpayer has net income, but in no case for more than 60029  
the designated carryover period as described in division (I)(1)(b) 60030  
of this section. The amount of such net operating loss, as 60031  
determined under the allocation and apportionment provisions of 60032  
section 5733.051 and division (B) of section 5733.05 of the 60033  
Revised Code for the year in which the net operating loss occurs, 60034

shall be deducted from net income, as determined under the 60035  
allocation and apportionment provisions of section 5733.051 and 60036  
division (B) of section 5733.05 of the Revised Code, to the extent 60037  
necessary to reduce net income to zero with the remaining unused 60038  
portion of the deduction, if any, carried forward to the remaining 60039  
years of the designated carryover period as described in division 60040  
(I)(1)(b) of this section, or until fully utilized, whichever 60041  
occurs first. 60042

(b) For losses incurred in taxable years ending on or before 60043  
December 31, 1981, the designated carryover period shall be the 60044  
five consecutive taxable years after the taxable year in which the 60045  
net operating loss occurred. For losses incurred in taxable years 60046  
ending on or after January 1, 1982, and beginning before August 6, 60047  
1997, the designated carryover period shall be the fifteen 60048  
consecutive taxable years after the taxable year in which the net 60049  
operating loss occurs. For losses incurred in taxable years 60050  
beginning on or after August 6, 1997, the designated carryover 60051  
period shall be the twenty consecutive taxable years after the 60052  
taxable year in which the net operating loss occurs. 60053

(c) The tax commissioner may require a taxpayer to furnish 60054  
any information necessary to support a claim for deduction under 60055  
division (I)(1)(a) of this section and no deduction shall be 60056  
allowed unless the information is furnished. 60057

(2) Deduct any amount included in net income by application 60058  
of section 78 or 951 of the Internal Revenue Code, amounts 60059  
received for royalties, technical or other services derived from 60060  
sources outside the United States, and dividends received from a 60061  
subsidiary, associate, or affiliated corporation that neither 60062  
transacts any substantial portion of its business nor regularly 60063  
maintains any substantial portion of its assets within the United 60064  
States. For purposes of determining net foreign source income 60065  
deductible under division (I)(2) of this section, the amount of 60066

gross income from all such sources other than dividend income and 60067  
income derived by application of section 78 or 951 of the Internal 60068  
Revenue Code shall be reduced by: 60069

(a) The amount of any reimbursed expenses for personal 60070  
services performed by employees of the taxpayer for the 60071  
subsidiary, associate, or affiliated corporation; 60072

(b) Ten per cent of the amount of royalty income and 60073  
technical assistance fees; 60074

(c) Fifteen per cent of the amount of all other income. 60075

The amounts described in divisions (I)(2)(a) to (c) of this 60076  
section are deemed to be the expenses attributable to the 60077  
production of deductible foreign source income unless the taxpayer 60078  
shows, by clear and convincing evidence, less actual expenses, or 60079  
the tax commissioner shows, by clear and convincing evidence, more 60080  
actual expenses. 60081

(3) Add any loss or deduct any gain resulting from the sale, 60082  
exchange, or other disposition of a capital asset, or an asset 60083  
described in section 1231 of the Internal Revenue Code, to the 60084  
extent that such loss or gain occurred prior to the first taxable 60085  
year on which the tax provided for in section 5733.06 of the 60086  
Revised Code is computed on the corporation's net income. For 60087  
purposes of division (I)(3) of this section, the amount of the 60088  
prior loss or gain shall be measured by the difference between the 60089  
original cost or other basis of the asset and the fair market 60090  
value as of the beginning of the first taxable year on which the 60091  
tax provided for in section 5733.06 of the Revised Code is 60092  
computed on the corporation's net income. At the option of the 60093  
taxpayer, the amount of the prior loss or gain may be a percentage 60094  
of the gain or loss, which percentage shall be determined by 60095  
multiplying the gain or loss by a fraction, the numerator of which 60096  
is the number of months from the acquisition of the asset to the 60097

beginning of the first taxable year on which the fee provided in 60098  
section 5733.06 of the Revised Code is computed on the 60099  
corporation's net income, and the denominator of which is the 60100  
number of months from the acquisition of the asset to the sale, 60101  
exchange, or other disposition of the asset. The adjustments 60102  
described in this division do not apply to any gain or loss where 60103  
the gain or loss is recognized by a qualifying taxpayer, as 60104  
defined in section 5733.0510 of the Revised Code, with respect to 60105  
a qualifying taxable event, as defined in that section. 60106

(4) Deduct the dividend received deduction provided by 60107  
section 243 of the Internal Revenue Code. 60108

(5) Deduct any interest or interest equivalent on public 60109  
obligations and purchase obligations to the extent included in 60110  
federal taxable income. As used in divisions (I)(5) and (6) of 60111  
this section, "public obligations," "purchase obligations," and 60112  
"interest or interest equivalent" have the same meanings as in 60113  
section 5709.76 of the Revised Code. 60114

(6) Add any loss or deduct any gain resulting from the sale, 60115  
exchange, or other disposition of public obligations to the extent 60116  
included in federal taxable income. 60117

(7) To the extent not otherwise allowed, deduct any dividends 60118  
or distributions received by a taxpayer from a public utility, 60119  
excluding an electric company and a combined company, and, for tax 60120  
years 2005 and thereafter, a telephone company, if the taxpayer 60121  
owns at least eighty per cent of the issued and outstanding common 60122  
stock of the public utility. As used in division (I)(7) of this 60123  
section, "public utility" means a public utility as defined in 60124  
Chapter 5727. of the Revised Code, whether or not the public 60125  
utility is doing business in the state. 60126

(8) To the extent not otherwise allowed, deduct any dividends 60127  
received by a taxpayer from an insurance company, if the taxpayer 60128

owns at least eighty per cent of the issued and outstanding common 60129  
stock of the insurance company. As used in division (I)(8) of this 60130  
section, "insurance company" means an insurance company that is 60131  
taxable under Chapter 5725. or 5729. of the Revised Code. 60132

(9) Deduct expenditures for modifying existing buildings or 60133  
structures to meet American national standards institute standard 60134  
A-117.1-1961 (R-1971), as amended; provided, that no deduction 60135  
shall be allowed to the extent that such deduction is not 60136  
permitted under federal law or under rules of the tax 60137  
commissioner. Those deductions as are allowed may be taken over a 60138  
period of five years. The tax commissioner shall adopt rules under 60139  
Chapter 119. of the Revised Code establishing reasonable 60140  
limitations on the extent that expenditures for modifying existing 60141  
buildings or structures are attributable to the purpose of making 60142  
the buildings or structures accessible to and usable by physically 60143  
handicapped persons. 60144

(10) Deduct the amount of wages and salaries, if any, not 60145  
otherwise allowable as a deduction but that would have been 60146  
allowable as a deduction in computing federal taxable income 60147  
before operating loss deduction and special deductions for the 60148  
taxable year, had the targeted jobs credit allowed and determined 60149  
under sections 38, 51, and 52 of the Internal Revenue Code not 60150  
been in effect. 60151

(11) Deduct net interest income on obligations of the United 60152  
States and its territories and possessions or of any authority, 60153  
commission, or instrumentality of the United States to the extent 60154  
the laws of the United States prohibit inclusion of the net 60155  
interest for purposes of determining the value of the taxpayer's 60156  
issued and outstanding shares of stock under division (B) of 60157  
section 5733.05 of the Revised Code. As used in division (I)(11) 60158  
of this section, "net interest" means interest net of any expenses 60159  
taken on the federal income tax return that would not have been 60160

allowed under section 265 of the Internal Revenue Code if the 60161  
interest were exempt from federal income tax. 60162

(12)(a) Except as set forth in division (I)(12)(d) of this 60163  
section, to the extent not included in computing the taxpayer's 60164  
federal taxable income before operating loss deduction and special 60165  
deductions, add gains and deduct losses from direct or indirect 60166  
sales, exchanges, or other dispositions, made by a related entity 60167  
who is not a taxpayer, of the taxpayer's indirect, beneficial, or 60168  
constructive investment in the stock or debt of another entity, 60169  
unless the gain or loss has been included in computing the federal 60170  
taxable income before operating loss deduction and special 60171  
deductions of another taxpayer with a more closely related 60172  
investment in the stock or debt of the other entity. The amount of 60173  
gain added or loss deducted shall not exceed the product obtained 60174  
by multiplying such gain or loss by the taxpayer's proportionate 60175  
share, directly, indirectly, beneficially, or constructively, of 60176  
the outstanding stock of the related entity immediately prior to 60177  
the direct or indirect sale, exchange, or other disposition. 60178

(b) Except as set forth in division (I)(12)(e) of this 60179  
section, to the extent not included in computing the taxpayer's 60180  
federal taxable income before operating loss deduction and special 60181  
deductions, add gains and deduct losses from direct or indirect 60182  
sales, exchanges, or other dispositions made by a related entity 60183  
who is not a taxpayer, of intangible property other than stock, 60184  
securities, and debt, if such property was owned, or used in whole 60185  
or in part, at any time prior to or at the time of the sale, 60186  
exchange, or disposition by either the taxpayer or by a related 60187  
entity that was a taxpayer at any time during the related entity's 60188  
ownership or use of such property, unless the gain or loss has 60189  
been included in computing the federal taxable income before 60190  
operating loss deduction and special deductions of another 60191  
taxpayer with a more closely related ownership or use of such 60192

intangible property. The amount of gain added or loss deducted 60193  
shall not exceed the product obtained by multiplying such gain or 60194  
loss by the taxpayer's proportionate share, directly, indirectly, 60195  
beneficially, or constructively, of the outstanding stock of the 60196  
related entity immediately prior to the direct or indirect sale, 60197  
exchange, or other disposition. 60198

(c) As used in division (I)(12) of this section, "related 60199  
entity" means those entities described in divisions (I)(12)(c)(i) 60200  
to (iii) of this section: 60201

(i) An individual stockholder, or a member of the 60202  
stockholder's family enumerated in section 318 of the Internal 60203  
Revenue Code, if the stockholder and the members of the 60204  
stockholder's family own, directly, indirectly, beneficially, or 60205  
constructively, in the aggregate, at least fifty per cent of the 60206  
value of the taxpayer's outstanding stock; 60207

(ii) A stockholder, or a stockholder's partnership, estate, 60208  
trust, or corporation, if the stockholder and the stockholder's 60209  
partnerships, estates, trusts, and corporations own directly, 60210  
indirectly, beneficially, or constructively, in the aggregate, at 60211  
least fifty per cent of the value of the taxpayer's outstanding 60212  
stock; 60213

(iii) A corporation, or a party related to the corporation in 60214  
a manner that would require an attribution of stock from the 60215  
corporation to the party or from the party to the corporation 60216  
under division (I)(12)(c)(iv) of this section, if the taxpayer 60217  
owns, directly, indirectly, beneficially, or constructively, at 60218  
least fifty per cent of the value of the corporation's outstanding 60219  
stock. 60220

(iv) The attribution rules of section 318 of the Internal 60221  
Revenue Code apply for purposes of determining whether the 60222  
ownership requirements in divisions (I)(12)(c)(i) to (iii) of this 60223

section have been met. 60224

(d) For purposes of the adjustments required by division 60225  
(I)(12)(a) of this section, the term "investment in the stock or 60226  
debt of another entity" means only those investments where the 60227  
taxpayer and the taxpayer's related entities directly, indirectly, 60228  
beneficially, or constructively own, in the aggregate, at any time 60229  
during the twenty-four month period commencing one year prior to 60230  
the direct or indirect sale, exchange, or other disposition of 60231  
such investment at least fifty per cent or more of the value of 60232  
either the outstanding stock or such debt of such other entity. 60233

(e) For purposes of the adjustments required by division 60234  
(I)(12)(b) of this section, the term "related entity" excludes all 60235  
of the following: 60236

(i) Foreign corporations as defined in section 7701 of the 60237  
Internal Revenue Code; 60238

(ii) Foreign partnerships as defined in section 7701 of the 60239  
Internal Revenue Code; 60240

(iii) Corporations, partnerships, estates, and trusts created 60241  
or organized in or under the laws of the Commonwealth of Puerto 60242  
Rico or any possession of the United States; 60243

(iv) Foreign estates and foreign trusts as defined in section 60244  
7701 of the Internal Revenue Code. 60245

The exclusions described in divisions (I)(12)(e)(i) to (iv) 60246  
of this section do not apply if the corporation, partnership, 60247  
estate, or trust is described in any one of divisions (C)(1) to 60248  
(5) of section 5733.042 of the Revised Code. 60249

(f) Nothing in division (I)(12) of this section shall require 60250  
or permit a taxpayer to add any gains or deduct any losses 60251  
described in divisions (I)(12)(f)(i) and (ii) of this section: 60252

(i) Gains or losses recognized for federal income tax 60253



purposes by an individual, estate, or trust without regard to the 60254  
attribution rules described in division (I)(12)(c) of this 60255  
section; 60256

(ii) A related entity's gains or losses described in division 60257  
(I)(12)(b) of this section if the taxpayer's ownership of or use 60258  
of such intangible property was limited to a period not exceeding 60259  
nine months and was attributable to a transaction or a series of 60260  
transactions executed in accordance with the election or elections 60261  
made by the taxpayer or a related entity pursuant to section 338 60262  
of the Internal Revenue Code. 60263

(13) Any adjustment required by section 5733.042 of the 60264  
Revised Code. 60265

(14) Add any amount claimed as a credit under section 60266  
5733.0611 of the Revised Code to the extent that such amount 60267  
satisfies either of the following: 60268

(a) It was deducted or excluded from the computation of the 60269  
corporation's taxable income before operating loss deduction and 60270  
special deductions as required to be reported for the 60271  
corporation's taxable year under the Internal Revenue Code; 60272

(b) It resulted in a reduction of the corporation's taxable 60273  
income before operating loss deduction and special deductions as 60274  
required to be reported for any of the corporation's taxable years 60275  
under the Internal Revenue Code. 60276

(15) Deduct the amount contributed by the taxpayer to an 60277  
individual development account program established by a county 60278  
department of job and family services pursuant to sections 329.11 60279  
to 329.14 of the Revised Code for the purpose of matching funds 60280  
deposited by program participants. On request of the tax 60281  
commissioner, the taxpayer shall provide any information that, in 60282  
the tax commissioner's opinion, is necessary to establish the 60283  
amount deducted under division (I)(15) of this section. 60284

(16) Any adjustment required by section 5733.0510 or 60285  
5733.0511 of the Revised Code. 60286

(17)(a) Add five-sixths of the amount of depreciation expense 60287  
allowed under subsection (k) of section 168 of the Internal 60288  
Revenue Code, including a person's proportionate or distributive 60289  
share of the amount of depreciation expense allowed by that 60290  
subsection to any pass-through entity in which the person has 60291  
direct or indirect ownership. The tax commissioner, under 60292  
procedures established by the commissioner, may waive the add-back 60293  
related to a pass-through entity if the person owns, directly or 60294  
indirectly, less than five per cent of the pass-through entity. 60295

(b) Nothing in division (I)(17) of this section shall be 60296  
construed to adjust or modify the adjusted basis of any asset. 60297

(c) To the extent the add-back is attributable to property 60298  
generating income or loss allocable under section 5733.051 of the 60299  
Revised Code, the add-back shall be allocated to the same location 60300  
as the income or loss generated by that property. Otherwise, the 60301  
add-back shall be apportioned, subject to division (B)(2)(d) of 60302  
section 5733.05 of the Revised Code. 60303

(18)(a) If a person is required to make the add-back under 60304  
division (I)(17)(a) of this section for a tax year, the person 60305  
shall deduct one-fifth of the amount added back for each of the 60306  
succeeding five tax years. 60307

(b) If the amount deducted under division (I)(18)(a) of this 60308  
section is attributable to an add-back allocated under division 60309  
(I)(17)(c) of this section, the amount deducted shall be allocated 60310  
to the same location. Otherwise, the amount shall be apportioned 60311  
using the apportionment factors for the taxable year in which the 60312  
deduction is taken, subject to division (B)(2)(d) of section 60313  
5733.05 of the Revised Code. 60314

(J) Any term used in this chapter has the same meaning as 60315

when used in comparable context in the laws of the United States 60316  
relating to federal income taxes unless a different meaning is 60317  
clearly required. Any reference in this chapter to the Internal 60318  
Revenue Code includes other laws of the United States relating to 60319  
federal income taxes. 60320

(K) "Financial institution" has the meaning given by section 60321  
5725.01 of the Revised Code but does not include a production 60322  
credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091. 60323

(L)(1) A "qualifying holding company" is any corporation 60324  
satisfying all of the following requirements: 60325

(a) Subject to divisions (L)(2) and (3) of this section, the 60326  
net book value of the corporation's intangible assets is greater 60327  
than or equal to ninety per cent of the net book value of all of 60328  
its assets and at least fifty per cent of the net book value of 60329  
all of its assets represents direct or indirect investments in the 60330  
equity of, loans and advances to, and accounts receivable due from 60331  
related members; 60332

(b) At least ninety per cent of the corporation's gross 60333  
income for the taxable year is attributable to the following: 60334

(i) The maintenance, management, ownership, acquisition, use, 60335  
and disposition of its intangible property, its aircraft the use 60336  
of which is not subject to regulation under 14 C.F.R. part 121 or 60337  
part 135, and any real property described in division (L)(2)(c) of 60338  
this section; 60339

(ii) The collection and distribution of income from such 60340  
property. 60341

(c) The corporation is not a financial institution on the 60342  
last day of the taxable year ending prior to the first day of the 60343  
tax year; 60344

(d) The corporation's related members make a good faith and 60345

reasonable effort to make timely and fully the adjustments 60346  
required by division (C)(2) of section 5733.05 of the Revised Code 60347  
and to pay timely and fully all uncontested taxes, interest, 60348  
penalties, and other fees and charges imposed under this chapter; 60349

(e) Subject to division (L)(4) of this section, the 60350  
corporation elects to be treated as a qualifying holding company 60351  
for the tax year. 60352

A corporation otherwise satisfying divisions (L)(1)(a) to (e) 60353  
of this section that does not elect to be a qualifying holding 60354  
company is not a qualifying holding company for the purposes of 60355  
this chapter. 60356

(2)(a)(i) For purposes of making the ninety per cent 60357  
computation under division (L)(1)(a) of this section, the net book 60358  
value of the corporation's assets shall not include the net book 60359  
value of aircraft or real property described in division 60360  
(L)(1)(b)(i) of this section. 60361

(ii) For purposes of making the fifty per cent computation 60362  
under division (L)(1)(a) of this section, the net book value of 60363  
assets shall include the net book value of aircraft or real 60364  
property described in division (L)(1)(b)(i) of this section. 60365

(b)(i) As used in division (L) of this section, "intangible 60366  
asset" includes, but is not limited to, the corporation's direct 60367  
interest in each pass-through entity only if at all times during 60368  
the corporation's taxable year ending prior to the first day of 60369  
the tax year the corporation's and the corporation's related 60370  
members' combined direct and indirect interests in the capital or 60371  
profits of such pass-through entity do not exceed fifty per cent. 60372  
If the corporation's interest in the pass-through entity is an 60373  
intangible asset for that taxable year, then the distributive 60374  
share of any income from the pass-through entity shall be income 60375  
from an intangible asset for that taxable year. 60376

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

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

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

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

(ii) Not more than ten per cent of the value of the real property and not more than ten per cent of the square footage of

the building or buildings that are part of the real property is 60408  
used, made available, or occupied for the purpose of providing, 60409  
acquiring, transferring, selling, or disposing of tangible 60410  
property or services in the normal course of business to persons 60411  
other than related members, the corporation's employees and their 60412  
families, and such related members' employees and their families. 60413

(d) As used in division (L) of this section, "related member" 60414  
has the same meaning as in division (A)(6) of section 5733.042 of 60415  
the Revised Code without regard to division (B) of that section. 60416

(3) The percentages described in division (L)(1)(a) of this 60417  
section shall be equal to the quarterly average of those 60418  
percentages as calculated during the corporation's taxable year 60419  
ending prior to the first day of the tax year. 60420

(4) With respect to the election described in division 60421  
(L)(1)(e) of this section: 60422

(a) The election need not accompany a timely filed report; 60423

(b) The election need not accompany the report; rather, the 60424  
election may accompany a subsequently filed but timely application 60425  
for refund and timely amended report, or a subsequently filed but 60426  
timely petition for reassessment; 60427

(c) The election is not irrevocable; 60428

(d) The election applies only to the tax year specified by 60429  
the corporation; 60430

(e) The corporation's related members comply with division 60431  
(L)(1)(d) of this section. 60432

Nothing in division (L)(4) of this section shall be construed 60433  
to extend any statute of limitations set forth in this chapter. 60434

(M) "Qualifying controlled group" means two or more 60435  
corporations that satisfy the ownership and control requirements 60436  
of division (A) of section 5733.052 of the Revised Code. 60437

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

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

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

**Sec. 5733.05.** As used in this section, "qualified research" means laboratory research, experimental research, and other similar types of research; research in developing or improving a product; or research in developing or improving the means of producing a product. It does not include market research, consumer surveys, efficiency surveys, management studies, ordinary testing or inspection of materials or products for quality control, historical research, or literary research. "Product" as used in this paragraph does not include services or intangible property.

The annual report determines the value of the issued and outstanding shares of stock of the taxpayer, which under division (A) or divisions (B) and (C) of this section is the base or measure of the franchise tax liability. Such determination shall be made as of the date shown by the report to have been the beginning of the corporation's annual accounting period that includes the first day of January of the tax year. For the purposes of this chapter, the value of the issued and outstanding shares of stock of any corporation that is a financial institution

shall be deemed to be the value as calculated in accordance with 60469  
division (A) of this section. For the purposes of this chapter, 60470  
the value of the issued and outstanding shares of stock of any 60471  
corporation that is not a financial institution shall be deemed to 60472  
be the values as calculated in accordance with divisions (B) and 60473  
(C) of this section. Except as otherwise required by this section 60474  
or section 5733.056 of the Revised Code, the value of a taxpayer's 60475  
issued and outstanding shares of stock under division (A) or (C) 60476  
of this section does not include any amount that is treated as a 60477  
liability under generally accepted accounting principles. 60478

(A) The total value, as shown by the books of the financial 60479  
institution, of its capital, surplus, whether earned or unearned, 60480  
undivided profits, and reserves shall be determined as prescribed 60481  
by section 5733.056 of the Revised Code for tax years 1998 and 60482  
thereafter. 60483

(B) The sum of the corporation's net income during the 60484  
corporation's taxable year, allocated or apportioned to this state 60485  
as prescribed in divisions (B)(1) and (2) of this section, and 60486  
subject to sections 5733.052, 5733.053, 5733.057, 5733.058, 60487  
5733.059, and 5733.0510 of the Revised Code: 60488

(1) The net income allocated to this state as provided by 60489  
section 5733.051 of the Revised Code. 60490

(2) The amount of Ohio apportioned net income from sources 60491  
other than those allocated under section 5733.051 of the Revised 60492  
Code, which shall be determined by multiplying the corporation's 60493  
net income by a fraction. The numerator of the fraction is the sum 60494  
of the following products: the property factor multiplied by 60495  
twenty, the payroll factor multiplied by twenty, and the sales 60496  
factor multiplied by sixty. The denominator of the fraction is one 60497  
hundred, provided that the denominator shall be reduced by twenty 60498  
if the property factor has a denominator of zero, by twenty if the 60499  
payroll factor has a denominator of zero, and by sixty if the 60500



sales factor has a denominator of zero. 60501

The property, payroll, and sales factors shall be determined 60502  
as follows: 60503

(a) The property factor is a fraction the numerator of which 60504  
is the average value of the corporation's real and tangible 60505  
personal property owned or rented, and used in the trade or 60506  
business in this state during the taxable year, and the 60507  
denominator of which is the average value of all the corporation's 60508  
real and tangible personal property owned or rented, and used in 60509  
the trade or business everywhere during such year. There shall be 60510  
excluded from the numerator and denominator of the property factor 60511  
the original cost of all of the following property within Ohio: 60512  
property with respect to which a "pollution control facility" 60513  
certificate has been issued pursuant to section 5709.21 of the 60514  
Revised Code; property with respect to which an "industrial water 60515  
pollution control certificate" has been issued pursuant to section 60516  
6111.31 of the Revised Code; and property used exclusively during 60517  
the taxable year for qualified research. 60518

(i) Property owned by the corporation is valued at its 60519  
original cost. Property rented by the corporation is valued at 60520  
eight times the net annual rental rate. "Net annual rental rate" 60521  
means the annual rental rate paid by the corporation less any 60522  
annual rental rate received by the corporation from subrentals. 60523

(ii) The average value of property shall be determined by 60524  
averaging the values at the beginning and the end of the taxable 60525  
year, but the tax commissioner may require the averaging of 60526  
monthly values during the taxable year, if reasonably required to 60527  
reflect properly the average value of the corporation's property. 60528

(b) The payroll factor is a fraction the numerator of which 60529  
is the total amount paid in this state during the taxable year by 60530  
the corporation for compensation, and the denominator of which is 60531

the total compensation paid everywhere by the corporation during 60532  
such year. There shall be excluded from the numerator and the 60533  
denominator of the payroll factor the total compensation paid in 60534  
this state to employees who are primarily engaged in qualified 60535  
research. 60536

(i) Compensation means any form of remuneration paid to an 60537  
employee for personal services. 60538

(ii) Compensation is paid in this state if: (1) the 60539  
recipient's service is performed entirely within this state, (2) 60540  
the recipient's service is performed both within and without this 60541  
state, but the service performed without this state is incidental 60542  
to the recipient's service within this state, (3) some of the 60543  
service is performed within this state and either the base of 60544  
operations, or if there is no base of operations, the place from 60545  
which the service is directed or controlled is within this state, 60546  
or the base of operations or the place from which the service is 60547  
directed or controlled is not in any state in which some part of 60548  
the service is performed, but the recipient's residence is in this 60549  
state. 60550

(iii) Compensation is paid in this state to any employee of a 60551  
common or contract motor carrier corporation, who performs the 60552  
employee's regularly assigned duties on a motor vehicle in more 60553  
than one state, in the same ratio by which the mileage traveled by 60554  
such employee within the state bears to the total mileage traveled 60555  
by such employee everywhere during the taxable year. 60556

(c) Except as provided in section 5733.059 of the Revised 60557  
Code, the sales factor is a fraction the numerator of which is the 60558  
total sales in this state by the corporation during the taxable 60559  
year, and the denominator of which is the total sales by the 60560  
corporation everywhere during such year. In determining the 60561  
numerator and denominator of the sales factor, receipts from the 60562  
sale or other disposal of a capital asset or an asset described in 60563

section 1231 of the Internal Revenue Code shall be eliminated. 60564  
Also, in determining the numerator and denominator of the sales 60565  
factor, in the case of a reporting corporation owning at least 60566  
eighty per cent of the issued and outstanding common stock of one 60567  
or more insurance companies or public utilities, except an 60568  
electric company and a combined company, and, for tax years 2005 60569  
and thereafter, a telephone company, or owning at least 60570  
twenty-five per cent of the issued and outstanding common stock of 60571  
one or more financial institutions, receipts received by the 60572  
reporting corporation from such utilities, insurance companies, 60573  
and financial institutions shall be eliminated. 60574

For the purpose of this section and section 5733.03 of the 60575  
Revised Code, sales of tangible personal property are in this 60576  
state where such property is received in this state by the 60577  
purchaser. In the case of delivery of tangible personal property 60578  
by common carrier or by other means of transportation, the place 60579  
at which such property is ultimately received after all 60580  
transportation has been completed shall be considered as the place 60581  
at which such property is received by the purchaser. Direct 60582  
delivery in this state, other than for purposes of transportation, 60583  
to a person or firm designated by a purchaser constitutes delivery 60584  
to the purchaser in this state, and direct delivery outside this 60585  
state to a person or firm designated by a purchaser does not 60586  
constitute delivery to the purchaser in this state, regardless of 60587  
where title passes or other conditions of sale. 60588

Except as provided in section 5733.059 of the Revised Code, 60589  
sales, other than sales of tangible personal property, are in this 60590  
state if either: 60591

(i) The income-producing activity is performed solely in this 60592  
state; 60593

(ii) The income-producing activity is performed both within 60594  
and without this state and a greater proportion of the 60595

income-producing activity is performed within this state than in 60596  
any other state, based on costs of performance. 60597

(d) If the allocation and apportionment provisions of 60598  
division (B) of this section do not fairly represent the extent of 60599  
the taxpayer's business activity in this state, the taxpayer may 60600  
request, which request must be in writing and must accompany the 60601  
report, timely filed petition for reassessment, or timely filed 60602  
amended report, or the tax commissioner may require, in respect to 60603  
all or any part of the taxpayer's allocated or apportioned base, 60604  
if reasonable, any one or more of the following: 60605

(i) Separate accounting; 60606

(ii) The exclusion of any one or more of the factors; 60607

(iii) The inclusion of one or more additional factors that 60608  
will fairly represent the taxpayer's allocated or apportioned base 60609  
in this state. 60610

An alternative method will be effective only with approval by 60611  
the tax commissioner. 60612

Nothing in this section shall be construed to extend any 60613  
statute of limitations set forth in this chapter. 60614

(e) The tax commissioner may adopt rules providing for 60615  
alternative allocation and apportionment methods, and alternative 60616  
calculations of a corporation's base, that apply to corporations 60617  
engaged in telecommunications. 60618

(C)(1) Subject to divisions (C)(2) and (3) of this section, 60619  
the total value, as shown on the books of each corporation that is 60620  
not a qualified holding company, of the net book value of a 60621  
corporation's assets less the net carrying value of its 60622  
liabilities, and excluding from the corporation's assets land 60623  
devoted exclusively to agricultural use as of the first Monday of 60624  
June in the corporation's taxable year as determined by the county 60625

auditor of the county in which the land is located pursuant to 60626  
section 5713.31 of the Revised Code. For the purposes of 60627  
determining that total value, any reserves shown on the 60628  
corporation's books shall be considered liabilities or contra 60629  
assets, except for any reserves that are deemed appropriations of 60630  
retained earnings under generally accepted accounting principles. 60631

(2)(a) If, on the last day of the taxpayer's taxable year 60632  
preceding the tax year, the taxpayer is a related member to a 60633  
corporation that elects to be a qualifying holding company for the 60634  
tax year beginning after the last day of the taxpayer's taxable 60635  
year, or if, on the last day of the taxpayer's taxable year 60636  
preceding the tax year, a corporation that elects to be a 60637  
qualifying holding company for the tax year beginning after the 60638  
last day of the taxpayer's taxable year is a related member to the 60639  
taxpayer, then the taxpayer's total value shall be adjusted by the 60640  
qualifying amount. Except as otherwise provided under division 60641  
(C)(2)(b) of this section, "qualifying amount" means the amount 60642  
that, when added to the taxpayer's total value, and when 60643  
subtracted from the net carrying value of the taxpayer's 60644  
liabilities computed without regard to division (C)(2) of this 60645  
section, or when subtracted from the taxpayer's total value and 60646  
when added to the net carrying value of the taxpayer's liabilities 60647  
computed without regard to division (C)(2) of this section, 60648  
results in the taxpayer's debt-to-equity ratio equaling the 60649  
debt-to-equity ratio of the qualifying controlled group on the 60650  
last day of the taxable year ending prior to the first day of the 60651  
tax year computed on a consolidated basis in accordance with 60652  
general accepted accounting principles. For the purposes of 60653  
division (C)(2)(a) of this section, the corporation's total value, 60654  
after the adjustment required by that division, shall not exceed 60655  
the net book value of the corporation's assets. 60656

(b)(i) The amount added to the taxpayer's total value and 60657

subtracted from the net carrying value of the taxpayer's 60658  
liabilities shall not exceed the amount of the net carrying value 60659  
of the taxpayer's liabilities owed to the taxpayer's related 60660  
members. 60661

(ii) A liability owed to the taxpayer's related members 60662  
includes, but is not limited to, any amount that the corporation 60663  
owes to a person that is not a related member if the corporation's 60664  
related member or related members in whole or in part guarantee 60665  
any portion or all of that amount, or pledge, hypothecate, 60666  
mortgage, or carry out any similar transactions to secure any 60667  
portion or all of that amount. 60668

(3) The base upon which the tax is levied under division (C) 60669  
of section 5733.06 of the Revised Code shall be computed by 60670  
multiplying the amount determined under divisions (C)(1) and (2) 60671  
of this section by the fraction determined under divisions 60672  
(B)(2)(a) to (c) of this section and, if applicable, divisions 60673  
(B)(2)(d)(ii) to (iv) of this section but without regard to 60674  
section 5733.052 of the Revised Code. 60675

(4) For purposes of division (C) of this section, "related 60676  
member" has the same meaning as in division (A)(6) of section 60677  
5733.042 of the Revised Code without regard to division (B) of 60678  
that section. 60679

**Sec. 5733.051.** Subject to section 5733.0510 of the Revised 60680  
Code, net income of a corporation subject to the tax imposed by 60681  
section 5733.06 of the Revised Code shall be allocated and 60682  
apportioned to this state as follows: 60683

(A) Net rents and royalties from real property located in 60684  
this state are allocable to this state. 60685

(B) Net rents and royalties from tangible personal property, 60686  
to the extent such property is utilized in this state, are 60687

allocable to this state if the taxpayer is otherwise subject to 60688  
the tax imposed by section 5733.06 of the Revised Code. 60689

(C) Capital gains and losses from the sale or other 60690  
disposition of real property located in this state are allocable 60691  
to this state. 60692

(D) Capital gains and losses from the sale or other 60693  
disposition of tangible personal property are allocable to this 60694  
state if the property had a situs in this state at the time of 60695  
sale and the taxpayer is otherwise subject to the tax imposed by 60696  
section 5733.06 of the Revised Code. 60697

(E) Capital gains and losses from the sale or other 60698  
disposition of intangible property which may produce income 60699  
enumerated in division (F) of this section are allocable on the 60700  
same basis as set forth in that division. Capital gains and losses 60701  
from the sale or other disposition of all other intangible 60702  
property are apportionable under division (I) of this section. 60703

(F) Dividends or distributions which are not otherwise 60704  
deducted or excluded from net income, other than dividends or 60705  
distributions from a domestic international sales corporation, are 60706  
allocable to this state in accordance with the ratio of the book 60707  
value of the physical assets of the payor of the dividends or 60708  
distributions located in this state divided by the book value of 60709  
the total physical assets of the payor located everywhere. 60710  
Dividends or distributions received from a domestic international 60711  
sales corporation, or from a payor the location of whose physical 60712  
assets is unavailable to the taxpayer, are apportionable under 60713  
division (I) of this section. 60714

(G) Patent and copyright royalties and technical assistance 60715  
fees, not representing the principal source of gross receipts of 60716  
the taxpayer, are allocable to this state to the extent that the 60717  
activity of the payor thereof giving rise to the payment takes 60718

place in this state. If the location of the payor's activity is 60719  
unavailable to the taxpayer, such royalties and fees are 60720  
apportionable under division (I) of this section. 60721

(H) The following amounts ~~described in division (B)(5) of~~ 60722  
~~section 5747.20 of the Revised Code~~ are allocable to this state: 60723

(1)(a) All lottery prize awards paid by the state lottery 60724  
commission pursuant to Chapter 3770. of the Revised Code. 60725

(b) All earnings, profit, income, and gain from the sale, 60726  
exchange, or other disposition of lottery prize awards paid or to 60727  
be paid to any person by the state lottery commission pursuant to 60728  
Chapter 3770. of the Revised Code. 60729

(c) All earnings, profit, income, and gain from the direct or 60730  
indirect ownership of lottery prize awards paid or to be paid to 60731  
any person by the state lottery commission pursuant to Chapter 60732  
3770. of the Revised Code. 60733

(d) All earnings, profit, income, and gain from the direct or 60734  
indirect interest in any right in or to any lottery prize awards 60735  
paid or to be paid to any person by the state lottery commission 60736  
pursuant to Chapter 3770. of the Revised Code. 60737

(2) Lottery prize awards and related earnings, profit, 60738  
income, or gain with regard to lotteries sponsored by persons or 60739  
agencies outside this state are allocable outside this state. 60740

(I) Any other net income, from sources other than those 60741  
enumerated in divisions (A) to (H) of this section, is 60742  
apportionable to this state on the basis of the mechanism provided 60743  
in division (B)(2) of section 5733.05 of the Revised Code. 60744

**Sec. 5733.056.** (A) As used in this section: 60745

(1) "Billing address" means the address where any notice, 60746  
statement, or bill relating to a customer's account is mailed, as 60747  
indicated in the books and records of the taxpayer on the first 60748



day of the taxable year or on such later date in the taxable year 60749  
when the customer relationship began. 60750

(2) "Borrower or credit card holder located in this state" 60751  
means: 60752

(a) A borrower, other than a credit card holder, that is 60753  
engaged in a trade or business and maintains its commercial 60754  
domicile in this state; or 60755

(b) A borrower that is not engaged in a trade or business, or 60756  
a credit card holder, whose billing address is in this state. 60757

(3) "Branch" means a "domestic branch" as defined in section 60758  
3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 60759  
1813(o), as amended. 60760

(4) "Compensation" means wages, salaries, commissions, and 60761  
any other form of remuneration paid to employees for personal 60762  
services that are included in such employee's gross income under 60763  
the Internal Revenue Code. In the case of employees not subject to 60764  
the Internal Revenue Code, such as those employed in foreign 60765  
countries, the determination of whether such payments would 60766  
constitute gross income to such employees under the Internal 60767  
Revenue Code shall be made as though such employees were subject 60768  
to the Internal Revenue Code. 60769

(5) "Credit card" means a credit, travel, or entertainment 60770  
card. 60771

(6) "Credit card issuer's reimbursement fee" means the fee a 60772  
taxpayer receives from a merchant's bank because one of the 60773  
persons to whom the taxpayer has issued a credit card has charged 60774  
merchandise or services to the credit card. 60775

(7) "Deposits" has the meaning given in section 3 of the 60776  
"Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(1), 60777  
as amended. 60778

(8) "Employee" means, with respect to a particular taxpayer, 60779  
any individual who under the usual common law rules applicable in 60780  
determining the employer-employee relationship, has the status of 60781  
an employee of that taxpayer. 60782

(9) "Gross rents" means the actual sum of money or other 60783  
consideration payable for the use or possession of property. 60784  
"Gross rents" includes: 60785

(a) Any amount payable for the use or possession of real 60786  
property or tangible personal property whether designated as a 60787  
fixed sum of money or as a percentage of receipts, profits, or 60788  
otherwise; 60789

(b) Any amount payable as additional rent or in lieu of rent, 60790  
such as interest, taxes, insurance, repairs, or any other amount 60791  
required to be paid by the terms of a lease or other arrangement; 60792  
and 60793

(c) A proportionate part of the cost of any improvement to 60794  
real property made by or on behalf of the taxpayer which reverts 60795  
to the owner or lessor upon termination of a lease or other 60796  
arrangement. The amount to be included in gross rents is the 60797  
amount of amortization or depreciation allowed in computing the 60798  
taxable income base for the taxable year. However, where a 60799  
building is erected on leased land, by or on behalf of the 60800  
taxpayer, the value of the land is determined by multiplying the 60801  
gross rent by eight, and the value of the building is determined 60802  
in the same manner as if owned by the taxpayer. 60803

(d) The following are not included in the term "gross rents": 60804

(i) Reasonable amounts payable as separate charges for water 60805  
and electric service furnished by the lessor; 60806

(ii) Reasonable amounts payable as service charges for 60807  
janitorial services furnished by the lessor; 60808

(iii) Reasonable amounts payable for storage, provided such amounts are payable for space not designated and not under the control of the taxpayer; and

(iv) That portion of any rental payment which is applicable to the space subleased from the taxpayer and not used by it.

(10) "Loan" means any extension of credit resulting from direct negotiations between the taxpayer and its customer, or the purchase, in whole or in part, of such extension of credit from another. Loans include debt obligations of subsidiaries, participations, syndications, and leases treated as loans for federal income tax purposes. "Loan" does not include: properties treated as loans under section 595 of the Internal Revenue Code; futures or forward contracts; options; notional principal contracts such as swaps; credit card receivables, including purchased credit card relationships; non-interest bearing balances due from depositor institutions; cash items in the process of collection; federal funds sold; securities purchased under agreements to resell; assets held in a trading account; securities; interests in a real estate mortgage investment conduit or other mortgage-backed or asset-backed security; and other similar items.

(11) "Loan secured by real property" means that fifty per cent or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

(12) "Merchant discount" means the fee, or negotiated discount, charged to a merchant by the taxpayer for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the card holder.

(13) "Participation" means an extension of credit in which an

undivided ownership interest is held on a pro rata basis in a 60840  
single loan or pool of loans and related collateral. In a loan 60841  
participation, the credit originator initially makes the loan and 60842  
then subsequently resells all or a portion of it to other lenders. 60843  
The participation may or may not be known to the borrower. 60844

(14) "Principal base of operations" with respect to 60845  
transportation property means the place of more or less permanent 60846  
nature from which the property is regularly directed or 60847  
controlled. With respect to an employee, the "principal base of 60848  
operations" means the place of more or less permanent nature from 60849  
which the employee regularly (a) starts work and to which the 60850  
employee customarily returns in order to receive instructions from 60851  
the employer or (b) communicates with the employee's customers or 60852  
other persons or (c) performs any other functions necessary to the 60853  
exercise of the trade or profession at some other point or points. 60854

(15) "Qualified institution" means a financial institution 60855  
that on or after June 1, 1997: 60856

(a)(i) Has consummated one or more approved transactions with 60857  
insured banks with different home states that would qualify under 60858  
section 102 of the "Riegle-Neal Interstate Banking and Branching 60859  
Efficiency Act of 1994," Public Law 103-328, 108 Stat. 2338; 60860

(ii) Is a federal savings association or federal savings bank 60861  
that has consummated one or more interstate acquisitions that 60862  
result in a financial institution that has branches in more than 60863  
one state; or 60864

(iii) Has consummated one or more approved interstate 60865  
acquisitions under authority of Title XI of the Revised Code that 60866  
result in a financial institution that has branches in more than 60867  
one state; and 60868

(b) Has at least nine per cent of its deposits in this state 60869  
as of the last day of June prior to the beginning of the tax year. 60870

(16) "Real property owned" and "tangible personal property owned" mean real and tangible personal property, respectively, on which the taxpayer may claim depreciation for federal income tax purposes, or to which the taxpayer holds legal title and on which no other person may claim depreciation for federal income tax purposes, or could claim depreciation if subject to federal income tax. Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

(17) "Regular place of business" means an office at which the taxpayer carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the taxpayer.

(18) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.

(19) "Syndication" means an extension of credit in which two or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount.

(20) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels and motor vehicles, as well as any equipment or containers attached to such property, such as rolling stock, barges, trailers, or the like.

(B) The annual financial institution report determines the value of the issued and outstanding shares of stock of the taxpayer, and is the base or measure of the franchise tax liability. Such determination shall be made as of the date shown by the report to have been the beginning of the financial institution's annual accounting period that includes the first day

of January of the tax year. For purposes of this section, division 60902  
(A) of section 5733.05, and division (D) of section 5733.06 of the 60903  
Revised Code, the value of the issued and outstanding shares of 60904  
stock of the financial institution shall include the total value, 60905  
as shown by the books of the financial institution, of its 60906  
capital, surplus, whether earned or unearned, undivided profits, 60907  
and reserves, but exclusive of: 60908

(1) Reserves for accounts receivable, depreciation, 60909  
depletion, and any other valuation reserves with respect to 60910  
specific assets; 60911

(2) Taxes due and payable during the year for which such 60912  
report was made; 60913

(3) Voting stock and participation certificates in 60914  
corporations chartered pursuant to the "Farm Credit Act of 1971," 60915  
85 Stat. 597, 12 U.S.C. 2091, as amended; 60916

(4) Good will, appreciation, and abandoned property as set up 60917  
in the annual report of the financial institution, provided a 60918  
certified balance sheet of the company is made available upon the 60919  
request of the tax commissioner. Such balance sheet shall not be a 60920  
part of the public records, but shall be a confidential report for 60921  
use of the tax commissioner only. 60922

(5) A portion of the value of the issued and outstanding 60923  
shares of stock of such financial institution equal to the amount 60924  
obtained by multiplying such value by the quotient obtained by: 60925

(a) Dividing (1) the amount of the financial institution's 60926  
assets, as shown on its books, represented by investments in the 60927  
capital stock and indebtedness of public utilities, except 60928  
electric companies and combined companies, and, for tax years 2005 60929  
and thereafter, telephone companies, of which at least eighty per 60930  
cent of the utility's issued and outstanding common stock is owned 60931  
by the financial institution by (2) the total assets of such 60932

financial institution as shown on its books; 60933

(b) Dividing (1) the amount of the financial institution's 60934  
assets, as shown on its books, represented by investments in the 60935  
capital stock and indebtedness of insurance companies of which at 60936  
least eighty per cent of the insurance company's issued and 60937  
outstanding common stock is owned by the financial institution by 60938  
(2) the total assets of such financial institution as shown on its 60939  
books; 60940

(c) Dividing (1) the amount of the financial institution's 60941  
assets, as shown on its books, represented by investments in the 60942  
capital stock and indebtedness of other financial institutions of 60943  
which at least twenty-five per cent of the other financial 60944  
institution's issued and outstanding common stock is owned by the 60945  
financial institution by (2) the total assets of the financial 60946  
institution as shown on its books. Division (B)(5)(c) of this 60947  
section applies only with respect to such other financial 60948  
institutions that for the tax year immediately following the 60949  
taxpayer's taxable year will pay the tax imposed by division (D) 60950  
of section 5733.06 of the Revised Code. 60951

(6) Land that has been determined pursuant to section 5713.31 60952  
of the Revised Code by the county auditor of the county in which 60953  
the land is located to be devoted exclusively to agricultural use 60954  
as of the first Monday of June in the financial institution's 60955  
taxable year. 60956

(7) Property within this state used exclusively during the 60957  
taxable year for qualified research as defined in section 5733.05 60958  
of the Revised Code. 60959

(C) The base upon which the tax levied under division (D) of 60960  
section 5733.06 of the Revised Code shall be computed by 60961  
multiplying the value of a financial institution's issued and 60962  
outstanding shares of stock as determined in division (B) of this 60963

section by a fraction. The numerator of the fraction is the sum of 60964  
the following: the property factor multiplied by fifteen, the 60965  
payroll factor multiplied by fifteen, and the sales factor 60966  
multiplied by seventy. The denominator of the fraction is one 60967  
hundred, provided that the denominator shall be reduced by fifteen 60968  
if the property factor has a denominator of zero, by fifteen if 60969  
the payroll factor has a denominator of zero, and by seventy if 60970  
the sales factor has a denominator of zero. 60971

(D) A financial institution shall calculate the property 60972  
factor as follows: 60973

(1) The property factor is a fraction, the numerator of which 60974  
is the average value of real property and tangible personal 60975  
property rented to the taxpayer that is located or used within 60976  
this state during the taxable year, the average value of real and 60977  
tangible personal property owned by the taxpayer that is located 60978  
or used within this state during the taxable year, and the average 60979  
value of the taxpayer's loans and credit card receivables that are 60980  
located within this state during the taxable year; and the 60981  
denominator of which is the average value of all such property 60982  
located or used within and without this state during the taxable 60983  
year. 60984

(2)(a) The value of real property and tangible personal 60985  
property owned by the taxpayer is the original cost or other basis 60986  
of such property for federal income tax purposes without regard to 60987  
depletion, depreciation, or amortization. 60988

(b) Loans are valued at their outstanding principal balance, 60989  
without regard to any reserve for bad debts. If a loan is 60990  
charged-off in whole or in part for federal income tax purposes, 60991  
the portion of the loan charged-off is not outstanding. A 60992  
specifically allocated reserve established pursuant to financial 60993  
accounting guidelines which is treated as charged-off for federal 60994  
income tax purposes shall be treated as charged-off for purposes 60995



of this section. 60996

(c) Credit card receivables are valued at their outstanding 60997  
principal balance, without regard to any reserve for bad debts. If 60998  
a credit card receivable is charged-off in whole or in part for 60999  
federal income tax purposes, the portion of the receivable 61000  
charged-off is not outstanding. 61001

(3) The average value of property owned by the taxpayer is 61002  
computed on an annual basis by adding the value of the property on 61003  
the first day of the taxable year and the value on the last day of 61004  
the taxable year and dividing the sum by two. If averaging on this 61005  
basis does not properly reflect average value, the tax 61006  
commissioner may require averaging on a more frequent basis. The 61007  
taxpayer may elect to average on a more frequent basis. When 61008  
averaging on a more frequent basis is required by the tax 61009  
commissioner or is elected by the taxpayer, the same method of 61010  
valuation must be used consistently by the taxpayer with respect 61011  
to property within and without this state and on all subsequent 61012  
returns unless the taxpayer receives prior permission from the tax 61013  
commissioner or the tax commissioner requires a different method 61014  
of determining value. 61015

(4)(a) The average value of real property and tangible 61016  
personal property that the taxpayer has rented from another and is 61017  
not treated as property owned by the taxpayer for federal income 61018  
tax purposes, shall be determined annually by multiplying the 61019  
gross rents payable during the taxable year by eight. 61020

(b) Where the use of the general method described in division 61021  
(D)(4)(a) of this section results in inaccurate valuations of 61022  
rented property, any other method which properly reflects the 61023  
value may be adopted by the tax commissioner or by the taxpayer 61024  
when approved in writing by the tax commissioner. Once approved, 61025  
such other method of valuation must be used on all subsequent 61026  
returns unless the taxpayer receives prior approval from the tax 61027

commissioner or the tax commissioner requires a different method 61028  
of valuation. 61029

(5)(a) Except as described in division (D)(5)(b) of this 61030  
section, real property and tangible personal property owned by or 61031  
rented to the taxpayer is considered to be located within this 61032  
state if it is physically located, situated, or used within this 61033  
state. 61034

(b) Transportation property is included in the numerator of 61035  
the property factor to the extent that the property is used in 61036  
this state. The extent an aircraft will be deemed to be used in 61037  
this state and the amount of value that is to be included in the 61038  
numerator of this state's property factor is determined by 61039  
multiplying the average value of the aircraft by a fraction, the 61040  
numerator of which is the number of landings of the aircraft in 61041  
this state and the denominator of which is the total number of 61042  
landings of the aircraft everywhere. If the extent of the use of 61043  
any transportation property within this state cannot be 61044  
determined, then the property will be deemed to be used wholly in 61045  
the state in which the property has its principal base of 61046  
operations. A motor vehicle will be deemed to be used wholly in 61047  
the state in which it is registered. 61048

(6)(a)(i) A loan, other than a loan or advance described in 61049  
division (D)(6)(d) of this section, is considered to be located 61050  
within this state if it is properly assigned to a regular place of 61051  
business of the taxpayer within this state. 61052

(ii) A loan is properly assigned to the regular place of 61053  
business with which it has a preponderance of substantive 61054  
contacts. A loan assigned by the taxpayer to a regular place of 61055  
business without the state shall be presumed to have been properly 61056  
assigned if: 61057

(I) The taxpayer has assigned, in the regular course of its 61058

business, such loan on its records to a regular place of business 61059  
consistent with federal or state regulatory requirements; 61060

(II) Such assignment on its records is based upon substantive 61061  
contacts of the load to such regular place of business; and 61062

(III) The taxpayer uses the records reflecting assignment of 61063  
loans for the filing of all state and local tax returns for which 61064  
an assignment of loans to a regular place of business is required. 61065

(iii) The presumption of proper assignment of a loan provided 61066  
in division (D)(6)(a)(ii) of this section may be rebutted upon a 61067  
showing by the tax commissioner, supported by a preponderance of 61068  
the evidence, that the preponderance of substantive contacts 61069  
regarding such loan did not occur at the regular place of business 61070  
to which it was assigned on the taxpayer's records. When such 61071  
presumption has been rebutted, the loan shall then be located 61072  
within this state if (1) the taxpayer had a regular place of 61073  
business within this state at the time the loan was made; and (2) 61074  
the taxpayer fails to show, by a preponderance of the evidence, 61075  
that the preponderance of substantive contacts regarding such loan 61076  
did not occur within this state. 61077

(b) In the case of a loan which is assigned by the taxpayer 61078  
to a place without this state which is not a regular place of 61079  
business, it shall be presumed, subject to rebuttal by the 61080  
taxpayer on a showing supported by the preponderance of evidence, 61081  
that the preponderance of substantive contacts regarding the loan 61082  
occurred within this state if, at the time the loan was made the 61083  
taxpayer's commercial domicile was within this state. 61084

(c) To determine the state in which the preponderance of 61085  
substantive contacts relating to a loan have occurred, the facts 61086  
and circumstances regarding the loan at issue shall be reviewed on 61087  
a case-by-case basis and consideration shall be given to such 61088  
activities as the solicitation, investigation, negotiation, 61089

approval, and administration of the loan. The terms 61090  
"solicitation," "investigation," "negotiation," "approval," and 61091  
"administration" are defined as follows: 61092

(i) "Solicitation" is either active or passive. Active 61093  
solicitation occurs when an employee of the taxpayer initiates the 61094  
contact with the customer. Such activity is located at the regular 61095  
place of business which the taxpayer's employee is regularly 61096  
connected with or working out of, regardless of where the services 61097  
of such employee were actually performed. Passive solicitation 61098  
occurs when the customer initiates the contact with the taxpayer. 61099  
If the customer's initial contact was not at a regular place of 61100  
business of the taxpayer, the regular place of business, if any, 61101  
where the passive solicitation occurred is determined by the facts 61102  
in each case. 61103

(ii) "Investigation" is the procedure whereby employees of 61104  
the taxpayer determine the creditworthiness of the customer as 61105  
well as the degree of risk involved in making a particular 61106  
agreement. Such activity is located at the regular place of 61107  
business which the taxpayer's employees are regularly connected 61108  
with or working out of, regardless of where the services of such 61109  
employees were actually performed. 61110

(iii) Negotiation is the procedure whereby employees of the 61111  
taxpayer and its customer determine the terms of the agreement, 61112  
such as the amount, duration, interest rate, frequency of 61113  
repayment, currency denomination, and security required. Such 61114  
activity is located at the regular place of business to which the 61115  
taxpayer's employees are regularly connected or working from, 61116  
regardless of where the services of such employees were actually 61117  
performed. 61118

(iv) "Approval" is the procedure whereby employees or the 61119  
board of directors of the taxpayer make the final determination 61120  
whether to enter into the agreement. Such activity is located at 61121

the regular place of business to which the taxpayer's employees 61122  
are regularly connected or working from, regardless of where the 61123  
services of such employees were actually performed. If the board 61124  
of directors makes the final determination, such activity is 61125  
located at the commercial domicile of the taxpayer. 61126

(v) "Administration" is the process of managing the account. 61127  
This process includes bookkeeping, collecting the payments, 61128  
corresponding with the customer, reporting to management regarding 61129  
the status of the agreement, and proceeding against the borrower 61130  
or the security interest if the borrower is in default. Such 61131  
activity is located at the regular place of business that oversees 61132  
this activity. 61133

(d) A loan or advance to a subsidiary corporation at least 61134  
fifty-one per cent of whose common stock is owned by the financial 61135  
institution shall be allocated in and out of the state by the 61136  
application of a ratio whose numerator is the sum of the net book 61137  
value of the subsidiary's real property owned in this state and 61138  
the subsidiary's tangible personal property owned in this state 61139  
and whose denominator is the sum of the subsidiary's real property 61140  
owned wherever located and the subsidiary's tangible personal 61141  
property owned wherever located. For purposes of calculating this 61142  
ratio, the taxpayer shall determine net book value in accordance 61143  
with generally accepted accounting principles. If the subsidiary 61144  
corporation owns at least fifty-one per cent of the common stock 61145  
of another corporation, the ratio shall be calculated by including 61146  
the other corporation's real property and tangible personal 61147  
property. The calculation of the ratio applies with respect to all 61148  
lower-tiered subsidiaries, provided that the immediate parent 61149  
corporation of the subsidiary owns at least fifty-one per cent of 61150  
the common stock of that subsidiary. 61151

(7) For purposes of determining the location of credit card 61152  
receivables, credit card receivables shall be treated as loans and 61153

shall be subject to division (D)(6) of this section. 61154

(8) A loan that has been properly assigned to a state shall, 61155  
absent any change of material fact, remain assigned to that state 61156  
for the length of the original term of the loan. Thereafter, the 61157  
loan may be properly assigned to another state if the loan has a 61158  
preponderance of substantive contact to a regular place of 61159  
business there. 61160

(E) A financial institution shall calculate the payroll 61161  
factor as follows: 61162

(1) The payroll factor is a fraction, the numerator of which 61163  
is the total amount paid in this state during the taxable year by 61164  
the taxpayer for compensation, and the denominator of which is the 61165  
total compensation paid both within and without this state during 61166  
the taxable year. 61167

(2) Compensation is paid in this state if any one of the 61168  
following tests, applied consecutively, is met: 61169

(a) The employee's services are performed entirely within 61170  
this state. 61171

(b) The employee's services are performed both within and 61172  
without this state, but the service performed without this state 61173  
is incidental to the employee's service within this state. The 61174  
term "incidental" means any service which is temporary or 61175  
transitory in nature, or which is rendered in connection with an 61176  
isolated transaction. 61177

(c) The employee's services are performed both within and 61178  
without this state, and: 61179

(i) The employee's principal base of operations is within 61180  
this state; or 61181

(ii) There is no principal base of operations in any state in 61182  
which some part of the services are performed, but the place from 61183

which the services are directed or controlled is in this state; or 61184

(iii) The principal base of operations and the place from 61185  
which the services are directed or controlled are not in any state 61186  
in which some part of the service is performed but the employee's 61187  
residence is in this state. 61188

(F) A financial institution shall calculate the sales factor 61189  
as follows: 61190

(1) The sales factor is a fraction, the numerator of which is 61191  
the receipts of the taxpayer in this state during the taxable year 61192  
and the denominator of which is the receipts of the taxpayer 61193  
within and without this state during the taxable year. The method 61194  
of calculating receipts for purposes of the denominator is the 61195  
same as the method used in determining receipts for purposes of 61196  
the numerator. 61197

(2) The numerator of the sales factor includes receipts from 61198  
the lease or rental of real property owned by the taxpayer if the 61199  
property is located within this state, or receipts from the 61200  
sublease of real property if the property is located within this 61201  
state. 61202

(3)(a) Except as described in division (F)(3)(b) of this 61203  
section the numerator of the sales factor includes receipts from 61204  
the lease or rental of tangible personal property owned by the 61205  
taxpayer if the property is located within this state when it is 61206  
first placed in service by the lessee. 61207

(b) Receipts from the lease or rental of transportation 61208  
property owned by the taxpayer are included in the numerator of 61209  
the sales factor to the extent that the property is used in this 61210  
state. The extent an aircraft will be deemed to be used in this 61211  
state and the amount of receipts that is to be included in the 61212  
numerator of this state's sales factor is determined by 61213  
multiplying all the receipts from the lease or rental of the 61214

aircraft by a fraction, the numerator of which is the number of  
landings of the aircraft in this state and the denominator of  
which is the total number of landings of the aircraft. If the  
extent of the use of any transportation property within this state  
cannot be determined, then the property will be deemed to be used  
wholly in the state in which the property has its principal base  
of operations. A motor vehicle will be deemed to be used wholly in  
the state in which it is registered.

(4)(a) The numerator of the sales factor includes interest  
and fees or penalties in the nature of interest from loans secured  
by real property if the property is located within this state. If  
the property is located both within this state and one or more  
other states, the receipts described in this paragraph are  
included in the numerator of the sales factor if more than fifty  
per cent of the fair market value of the real property is located  
within this state. If more than fifty per cent of the fair market  
value of the real property is not located within any one state,  
then the receipts described in this paragraph shall be included in  
the numerator of the sales factor if the borrower is located in  
this state.

(b) The determination of whether the real property securing a  
loan is located within this state shall be made as of the time the  
original agreement was made and any and all subsequent  
substitutions of collateral shall be disregarded.

(5) The numerator of the sales factor includes interest and  
fees or penalties in the nature of interest from loans not secured  
by real property if the borrower is located in this state.

(6) The numerator of the sales factor includes net gains from  
the sale of loans. Net gains from the sale of loans includes  
income recorded under the coupon stripping rules of section 1286  
of the Internal Revenue Code.



(a) The amount of net gains, but not less than zero, from the sale of loans secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(b) The amount of net gains, but not less than zero, from the sale of loans not secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(5) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(7) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, if the billing address of the card holder is in this state.

(8) The numerator of the sales factor includes net gains, but not less than zero, from the sale of credit card receivables multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(7) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(9) The numerator of the sales factor includes all credit card issuer's reimbursement fees multiplied by a fraction, the

numerator of which is the amount included in the numerator of the 61277  
sales factor pursuant to division (F)(7) of this section and the 61278  
denominator of which is the taxpayer's total amount of interest 61279  
and fees or penalties in the nature of interest from credit card 61280  
receivables and fees charged to card holders. 61281

(10) The numerator of the sales factor includes receipts from 61282  
merchant discount if the commercial domicile of the merchant is in 61283  
this state. Such receipts shall be computed net of any card holder 61284  
charge backs, but shall not be reduced by any interchange 61285  
transaction fees or by any issuer's reimbursement fees paid to 61286  
another for charges made by its card holders. 61287

(11)(a)(i) The numerator of the sales factor includes loan 61288  
servicing fees derived from loans secured by real property 61289  
multiplied by a fraction the numerator of which is the amount 61290  
included in the numerator of the sales factor pursuant to division 61291  
(F)(4) of this section and the denominator of which is the total 61292  
amount of interest and fees or penalties in the nature of interest 61293  
from loans secured by real property. 61294

(ii) The numerator of the sales factor includes loan 61295  
servicing fees derived from loans not secured by real property 61296  
multiplied by a fraction the numerator of which is the amount 61297  
included in the numerator of the sales factor pursuant to division 61298  
(F)(5) of this section and the denominator of which is the total 61299  
amount of interest and fees or penalties in the nature of interest 61300  
from loans not secured by real property. 61301

(b) In circumstances in which the taxpayer receives loan 61302  
servicing fees for servicing either the secured or the unsecured 61303  
loans of another, the numerator of the sales factor shall include 61304  
such fees if the borrower is located in this state. 61305

(12) The numerator of the sales factor includes receipts from 61306  
services not otherwise apportioned under this section if the 61307

service is performed in this state. If the service is performed 61308  
both within and without this state, the numerator of the sales 61309  
factor includes receipts from services not otherwise apportioned 61310  
under this section, if a greater proportion of the income 61311  
producing activity is performed in this state based on cost of 61312  
performance. 61313

(13)(a) Interest, dividends, net gains, but not less than 61314  
zero, and other income from investment assets and activities and 61315  
from trading assets and activities shall be included in the sales 61316  
factor. Investment assets and activities and trading assets and 61317  
activities include but are not limited to: investment securities; 61318  
trading account assets; federal funds; securities purchased and 61319  
sold under agreements to resell or repurchase; options; futures 61320  
contracts; forward contracts; notional principal contracts such as 61321  
swaps; equities; and foreign currency transactions. With respect 61322  
to the investment and trading assets and activities described in 61323  
divisions (F)(13)(a)(i) and (ii) of this section, the sales factor 61324  
shall include the amounts described in such divisions. 61325

(i) The sales factor shall include the amount by which 61326  
interest from federal funds sold and securities purchased under 61327  
resale agreements exceeds interest expense on federal funds 61328  
purchased and securities sold under repurchase agreements. 61329

(ii) The sales factor shall include the amount by which 61330  
interest, dividends, gains, and other income from trading assets 61331  
and activities, including, but not limited to, assets and 61332  
activities in the matched book, in the arbitrage book, and foreign 61333  
currency transactions, exceed amounts paid in lieu of interest, 61334  
amounts paid in lieu of dividends, and losses from such assets and 61335  
activities. 61336

(b) The numerator of the sales factor includes interest, 61337  
dividends, net gains, but not less than zero, and other income 61338  
from investment assets and activities and from trading assets and 61339

activities described in division (F)(13)(a) of this section that 61340  
are attributable to this state. 61341

(i) The amount of interest, other than interest described in 61342  
division (F)(13)(b)(iv) of this section, dividends, other than 61343  
dividends described in that division, net gains, but not less than 61344  
zero, and other income from investment assets and activities in 61345  
the investment account to be attributed to this state and included 61346  
in the numerator is determined by multiplying all such income from 61347  
such assets and activities by a fraction, the numerator of which 61348  
is the average value of such assets which are properly assigned to 61349  
a regular place of business of the taxpayer within this state and 61350  
the denominator of which is the average value of all such assets. 61351

(ii) The amount of interest from federal funds sold and 61352  
purchased and from securities purchased under resale agreements 61353  
and securities sold under repurchase agreements attributable to 61354  
this state and included in the numerator is determined by 61355  
multiplying the amount described in division (F)(13)(a)(i) of this 61356  
section from such funds and such securities by a fraction, the 61357  
numerator of which is the average value of federal funds sold and 61358  
securities purchased under agreements to resell which are properly 61359  
assigned to a regular place of business of the taxpayer within 61360  
this state and the denominator of which is the average value of 61361  
all such funds and such securities. 61362

(iii) The amount of interest, dividends, gains, and other 61363  
income from trading assets and activities, including but not 61364  
limited to assets and activities in the matched book, in the 61365  
arbitrage book, and foreign currency transaction, but excluding 61366  
amounts described in division (F)(13)(b)(i) or (ii) of this 61367  
section, attributable to this state and included in the numerator 61368  
is determined by multiplying the amount described in division 61369  
(F)(13)(a)(ii) of this section by a fraction, the numerator of 61370  
which is the average value of such trading assets which are 61371

properly assigned to a regular place of business of the taxpayer 61372  
within this state and the denominator of which is the average 61373  
value of all such assets. 61374

(iv) The amount of dividends received on the capital stock 61375  
of, and the amount of interest received from loans and advances 61376  
to, subsidiary corporations at least fifty-one per cent of whose 61377  
common stock is owned by the reporting financial institution shall 61378  
be allocated in and out of this state by the application of a 61379  
ratio whose numerator is the sum of the net book value of the 61380  
payor's real property owned in this state and the payor's tangible 61381  
personal property owned in this state and whose denominator is the 61382  
sum of the net book value of the payor's real property owned 61383  
wherever located and the payor's tangible personal property owned 61384  
wherever located. For purposes of calculating this ratio, the 61385  
taxpayer shall determine net book value in accordance with 61386  
generally accepted accounting principles. 61387

(v) For purposes of this division, average value shall be 61388  
determined using the rules for determining the average value of 61389  
tangible personal property set forth in division (D)(2) and (3) of 61390  
this section. 61391

(c) In lieu of using the method set forth in division 61392  
(F)(13)(b) of this section, the taxpayer may elect, or the tax 61393  
commissioner may require in order to fairly represent the business 61394  
activity of the taxpayer in this state, the use of the method set 61395  
forth in division (F)(13)(c) of this section. 61396

(i) The amount of interest, other than interest described in 61397  
division (F)(13)(b)(iv) of this section, dividends, other than 61398  
dividends described in that division, net gains, but not less than 61399  
zero, and other income from investment assets and activities in 61400  
the investment account to be attributed to this state and included 61401  
in the numerator is determined by multiplying all such income from 61402  
such assets and activities by a fraction, the numerator of which 61403

is the gross income from such assets and activities which are 61404  
properly assigned to a regular place of business of the taxpayer 61405  
within this state, and the denominator of which is the gross 61406  
income from all such assets and activities. 61407

(ii) The amount of interest from federal funds sold and 61408  
purchased and from securities purchased under resale agreements 61409  
and securities sold under repurchase agreements attributable to 61410  
this state and included in the numerator is determined by 61411  
multiplying the amount described in division (F)(13)(a)(i) of this 61412  
section from such funds and such securities by a fraction, the 61413  
numerator of which is the gross income from such funds and such 61414  
securities which are properly assigned to a regular place of 61415  
business of the taxpayer within this state and the denominator of 61416  
which is the gross income from all such funds and such securities. 61417

(iii) The amount of interest, dividends, gains, and other 61418  
income from trading assets and activities, including, but not 61419  
limited to, assets and activities in the matched book, in the 61420  
arbitrage book, and foreign currency transactions, but excluding 61421  
amounts described in division (F)(13)(a)(i) or (ii) of this 61422  
section, attributable to this state and included in the numerator, 61423  
is determined by multiplying the amount described in division 61424  
(F)(13)(a)(ii) of this section by a fraction, the numerator of 61425  
which is the gross income from such trading assets and activities 61426  
which are properly assigned to a regular place of business of the 61427  
taxpayer within this state and the denominator of which is the 61428  
gross income from all such assets and activities. 61429

(iv) The amount of dividends received on the capital stock 61430  
of, and the amount of interest received from loans and advances 61431  
to, subsidiary corporations at least fifty-one per cent of whose 61432  
common stock is owned by the reporting financial institution shall 61433  
be allocated in and out of this state by the application of a 61434  
ratio whose numerator is the sum of the net book value of the 61435

payor's real property owned in this state and the payor's tangible 61436  
personal property owned in this state and whose denominator is the 61437  
sum of the payor's real property owned wherever located and the 61438  
payor's tangible personal property owned wherever located. For 61439  
purposes of calculating this ratio, the taxpayer shall determine 61440  
net book value in accordance with generally accepted accounting 61441  
principles. 61442

(d) If the taxpayer elects or is required by the tax 61443  
commissioner to use the method set forth in division (F)(13)(c) of 61444  
this section, it shall use this method on all subsequent returns 61445  
unless the taxpayer receives prior permission from the tax 61446  
commissioner to use or the tax commissioner requires a different 61447  
method. 61448

(e) The taxpayer shall have the burden of proving that an 61449  
investment asset or activity or trading asset or activity was 61450  
properly assigned to a regular place of business outside of this 61451  
state by demonstrating that the day-to-day decisions regarding the 61452  
asset or activity occurred at a regular place of business outside 61453  
this state. Where the day-to-day decisions regarding an investment 61454  
asset or activity or trading asset or activity occur at more than 61455  
one regular place of business and one such regular place of 61456  
business is in this state and one such regular place of business 61457  
is outside this state such asset or activity shall be considered 61458  
to be located at the regular place of business of the taxpayer 61459  
where the investment or trading policies or guidelines with 61460  
respect to the asset or activity are established. Unless the 61461  
taxpayer demonstrates to the contrary, such policies and 61462  
guidelines shall be presumed to be established at the commercial 61463  
domicile of the taxpayer. 61464

(14) The numerator of the sales factor includes all other 61465  
receipts if either: 61466

(a) The income-producing activity is performed solely in this 61467

state; or 61468

(b) The income-producing activity is performed both within 61469  
and without this state and a greater proportion of the 61470  
income-producing activity is performed within this state than in 61471  
any other state, based on costs of performance. 61472

(G) A qualified institution may calculate the base upon which 61473  
the fee provided for in division (D) of section 5733.06 of the 61474  
Revised Code is determined for each tax year by multiplying the 61475  
value of its issued and outstanding shares of stock determined 61476  
under division (B) of this section by a single deposits fraction 61477  
whose numerator is the deposits assigned to branches in this state 61478  
and whose denominator is the deposits assigned to branches 61479  
everywhere. Deposits shall be assigned to branches in the same 61480  
manner in which the assignment is made for regulatory purposes. If 61481  
the base calculated under this division is less than the base 61482  
calculated under division (C) of this section, then the qualifying 61483  
institution may elect to substitute the base calculated under this 61484  
division for the base calculated under division (C) of this 61485  
section. Such election may be made annually for each tax year on 61486  
the corporate report. The election need not accompany the report; 61487  
rather, the election may accompany a subsequently filed but timely 61488  
application for refund, a subsequently filed but timely amended 61489  
report, or a subsequently filed but timely petition for 61490  
reassessment. The election is not irrevocable and it applies only 61491  
to the specified tax year. Nothing in this division shall be 61492  
construed to extend any statute of limitations set forth in this 61493  
chapter. 61494

(H) If the apportionment provisions of this section do not 61495  
fairly represent the extent of the taxpayer's business activity in 61496  
this state, the taxpayer may petition for or the tax commissioner 61497  
may require, in respect to all or any part of the taxpayer's 61498  
business activity, if reasonable: 61499



(1) Separate accounting;	61500
(2) The exclusion of any one or more of the factors;	61501
(3) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or	61502 61503 61504
(4) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's value.	61505 61506
<b>Sec. 5733.059.</b> (A) As used in this section:	61507
(1) "Customer" means a person who purchases electricity for consumption either by that person or by the person's related member and the electricity is not for resale directly or indirectly to any person other than a related member.	61508 61509 61510 61511
(2) "Related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.	61512 61513 61514
(B) Except as provided in division (C) of this section, this division applies only to sales of electric transmission and distribution services. For purposes of sections 5733.05 and 5747.21 of the Revised Code:	61515 61516 61517 61518
(1) Sales of the transmission of electricity are in this state in proportion to the ratio of the wire mileage of the taxpayer's transmission lines located in this state divided by the wire mileage of the taxpayer's transmission lines located everywhere. Transmission wire mileage shall be weighted for the voltage capacity of each line.	61519 61520 61521 61522 61523 61524
(2) Sales of the distribution of electricity are in this state in proportion to the ratio of the wire mileage of the taxpayer's distribution lines located in this state divided by the wire mileage of the taxpayer's distribution lines located	61525 61526 61527 61528

everywhere. Distribution wire mileage shall not be weighted for 61529  
the voltage capacity of each line. 61530

(C) This division applies only to a person that has 61531  
transmission or distribution lines in this state. If a contract 61532  
for the sale of electricity includes the seller's or the seller's 61533  
related member's obligation to transmit or distribute the 61534  
electricity and if the sales contract separately identifies the 61535  
price charged for the transmission or distribution of electricity, 61536  
the price charged for the transmission and distribution of 61537  
electricity shall be apportioned to this state in accordance with 61538  
division (B) of this section. Any remaining portion of the sales 61539  
price of the electricity shall be sitused to this state in 61540  
accordance with division (D) of this section. 61541

If the sales contract does not separately identify the price 61542  
charged for the transmission or distribution of electricity, the 61543  
sales price of the electricity shall be sitused to this state in 61544  
accordance with division (D) of this section. 61545

(D) Any person who makes a sale of electricity shall situs 61546  
the following to this state: 61547

(1) A sale of electricity directly or indirectly to a 61548  
customer to the extent the customer consumes the electricity in 61549  
this state; 61550

(2) A sale of electricity directly or indirectly to a related 61551  
member where the related member directly or indirectly sells 61552  
electricity to a customer to the extent the customer consumes the 61553  
electricity in this state; 61554

(3) A sale of electricity if the seller or the seller's 61555  
related member directly or indirectly delivers the electricity to 61556  
a location in this state or directly or indirectly delivers the 61557  
electricity exactly to the border of this state and another state; 61558

(4) A sale of electricity if the seller or the seller's 61559

related member directly or indirectly directs the delivery of the 61560  
electricity to a location in this state or directly or indirectly 61561  
directs the delivery of the electricity exactly to the border of 61562  
this state and another state. 61563

(E) If the situsing provisions of this section do not fairly 61564  
represent the extent of the taxpayer's or the taxpayer's related 61565  
member's activity in this state, the taxpayer may request, or the 61566  
tax commissioner may require, in respect to all or part of a 61567  
taxpayer's or related member's sales, if reasonable, any of the 61568  
following: 61569

(1) Separate accounting; 61570

(2) The exclusion of one or more additional situsing factors 61571  
that will fairly represent the taxpayer's and the related member's 61572  
sales in this state; 61573

(3) The inclusion of one or more additional situsing factors 61574  
that will fairly represent the taxpayer's and the related member's 61575  
sales in this state. 61576

The taxpayer's request shall be in writing and shall be filed 61577  
with the report required by section 5733.02 of the Revised Code, a 61578  
timely filed petition for reassessment, or a timely filed amended 61579  
report. An alternative situsing method shall be effective with the 61580  
approval of the tax commissioner. 61581

Nothing in this section shall be construed to extend any 61582  
statute of limitations set forth in this chapter. 61583

(F) If the situsing provisions of this section do not fairly 61584  
represent activity in this state, the tax commissioner may 61585  
promulgate rules to situs sales using a methodology that fairly 61586  
reflects sales in this state. 61587

(G) Notwithstanding ~~sections 5733.111 and 5747.131~~ section 61588  
5703.56 of the Revised Code to the contrary, a person situsing a 61589

sale outside this state has the burden to establish by a 61590  
preponderance of the evidence that the doctrines enumerated in 61591  
~~those sections~~ that section do not apply. 61592

Sec. 5733.0511. (A) As used in this section: 61593

(1) "Qualifying telephone company taxpayer" means either of 61594  
the following: 61595

(a) A telephone company, but only if the telephone company 61596  
was subject to the tax imposed by section 5727.30 of the Revised 61597  
Code for gross receipts received during the period from July 1, 61598  
2003, to June 30, 2004, and the telephone company's property 61599  
subject to taxation under Chapter 5727. of the Revised Code for 61600  
tax years 2003 through 2006 was assessed using the true value 61601  
percentages provided for in division (B) of section 5727.111 of 61602  
the Revised Code. 61603

(b) Any taxpayer not described in division (A)(1)(a) of this 61604  
section if a telephone company described in division (A)(1)(a) of 61605  
this section transfers all or a portion of its assets and equity 61606  
directly or indirectly to the taxpayer, the transfer occurred as 61607  
part of an entity organization or reorganization, or subsequent 61608  
entity organization or reorganization, and the gain or loss with 61609  
respect to the transfer is not recognized in whole or in part for 61610  
federal income tax purposes under the Internal Revenue Code on 61611  
account of a transfer as part of an entity organization or 61612  
reorganization, or subsequent entity organization or 61613  
reorganization. 61614

(2) "Qualifying telephone company asset" means any asset 61615  
shown on the qualifying telephone company taxpayer's books and 61616  
records on December 31, 2003, in accordance with generally 61617  
accepted accounting principles. 61618

(3) "Net income" has the same meaning as in division (I) of 61619

section 5733.04 of the Revised Code. 61620

(4) "Book-tax difference" means the difference, if any, 61621  
between a qualifying telephone company asset's net book value 61622  
shown on the qualifying telephone company taxpayer's books and 61623  
records on December 31, 2003, in accordance with generally 61624  
accepted accounting principles, and such asset's adjusted basis on 61625  
December 31, 2003. The book-tax differential may be a negative 61626  
number. 61627

(5) Solely for purposes of division (A)(1)(a) of this 61628  
section, "tax year" has the same meaning as used in section 61629  
5727.01 of the Revised Code. 61630

(B) In computing net income under division (I) of section 61631  
5733.04 of the Revised Code, a qualifying telephone company 61632  
taxpayer shall adjust net income to reflect a ten-year 61633  
amortization of the book-tax difference for each qualifying 61634  
telephone company asset, in equal installments over each of the 61635  
ten tax years beginning with 2010. If the net book value exceeds 61636  
the adjusted basis of the asset as of December 31, 2003, net 61637  
income shall be reduced in each of the ten years beginning with 61638  
tax year 2010 by one-tenth of the book-tax difference. If the 61639  
adjusted basis exceeds the net book value of the asset as of 61640  
December 31, 2003, net income shall be increased in each of the 61641  
ten years beginning with tax year 2010 by one-tenth of the 61642  
absolute value of the book-tax difference. The adjustment to net 61643  
income provided for by this division shall apply without regard to 61644  
the disposal of those assets after December 31, 2003. 61645

(C) The allocation and apportionment of this amortization of 61646  
the book-tax difference under this section shall be governed by 61647  
division (B) of section 5733.05 and by section 5733.051 of the 61648  
Revised Code. The tax commissioner may prescribe rules regarding 61649  
the apportionment of the amortization of the book-tax difference 61650  
under this section. 61651

(D) Nothing in this section shall allow for an adjustment 61652  
more than once with respect to the same qualifying asset or allow 61653  
more than one corporation to claim an adjustment with respect to 61654  
the same qualifying telephone company asset. 61655

**Sec. 5733.0611.** (A) There is hereby allowed a nonrefundable 61656  
credit against the tax imposed under section 5733.06 of the 61657  
Revised Code. The credit shall be equal to the taxpayer's 61658  
proportionate share of the lesser of either the tax due or the tax 61659  
paid by any qualifying entity under section 5733.41 of the Revised 61660  
Code for the qualifying taxable year of the qualifying entity that 61661  
ends in the taxable year of the taxpayer. The taxpayer shall claim 61662  
the credit for the taxpayer's taxable year in which ends the 61663  
qualifying entity's qualifying taxable year. 61664

In claiming the credit and determining its proportionate 61665  
share of the tax due and the tax paid by the qualifying entity, 61666  
the person claiming the credit shall follow the concepts set forth 61667  
in subchapter K of the Internal Revenue Code. Nothing in this 61668  
division shall be construed to limit or disallow pass-through 61669  
treatment of a pass-through entity's income, deductions, credits, 61670  
or other amounts necessary to compute the tax imposed and the 61671  
credits allowed under this chapter. 61672

The credit shall be claimed in the order required under 61673  
section 5733.98 of the Revised Code. Any unused credit shall be 61674  
allowed as a credit in the ensuing tax year. Any such amount 61675  
allowed as a credit in an ensuing tax year shall be deducted from 61676  
the balance carried forward to the next ensuing tax year. 61677

(B) Any person that is not a taxpayer solely by reason of 61678  
division (A) or (C) of section 5733.09 of the Revised Code or a 61679  
person described in section 501(c) of the Internal Revenue Code or 61680  
division (F) of section 3334.01 of the Revised Code, but that 61681  
would be entitled to claim the nonrefundable credit under this 61682

section if that person were a taxpayer, may file an application 61683  
for refund pursuant to section 5733.12 of the Revised Code. Upon 61684  
proper application for refund under that section, the tax 61685  
commissioner shall issue a refund in the amount of the credit to 61686  
which that person would have been entitled under division (A)(1) 61687  
of this section if the person had been a taxpayer, and as if the 61688  
credit were a refundable credit. 61689

(C) If an organization described in section 401(a) of the 61690  
Internal Revenue Code or a trust or fund is entitled to a 61691  
proportionate share of the lesser of either the tax due or the tax 61692  
paid by any qualifying entity under section 5733.41 of the Revised 61693  
Code, and if that proportionate share is then or could be 61694  
allocable to an exempt person as defined in division (D) of this 61695  
section, then the organization, trust, or fund may file an 61696  
application for refund with respect to such allocable amounts 61697  
pursuant to section 5733.12 of the Revised Code. Upon proper 61698  
application for refund under that section, the tax commissioner 61699  
shall issue a refund in the amount of the credit to which the 61700  
organization, trust, or fund would have been entitled under 61701  
division (A)(1) of this section had the organization, trust, or 61702  
fund been a taxpayer, and as if the credit were a refundable 61703  
credit. To the extent that such an organization, trust, or fund is 61704  
permitted to apply for a refund under this division, or to the 61705  
extent that such an organization, trust, or fund has applied for 61706  
such a refund, exempt persons are not entitled to the credit 61707  
authorized under this section or section 5747.059 of the Revised 61708  
Code. 61709

(D)(1) For the purposes of division (C) of this section only, 61710  
"exempt person" means any of the following: 61711

(a) A person that is or may be the beneficiary of a trust if 61712  
the trust is subject to Subchapter D of Chapter 1 of Subtitle A of 61713  
the Internal Revenue Code. 61714

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

(c) A person, other than a person that is treated as a C corporation for federal income tax purposes, who is or may be the beneficiary of a trust that, under its governing instrument, is not required to distribute all of its income currently. Division (D)(1)(c) of this section applies only if the trust irrevocably agrees that for the taxable year during or for which the trust distributes any of its income to any of the beneficiaries, the trust is a qualifying trust as defined in section 5733.40 of the Revised Code and will pay the estimated tax, and will withhold and pay the withheld tax as required under section 5733.41 and sections 5747.40 to 5747.453 of the Revised Code.

(2) An exempt person does not include any person that would not qualify as an exempt person under the doctrines of "economic reality," "sham transaction," "step doctrine," or "substance over form." Notwithstanding ~~sections 5733.111 and 5747.131~~ section 5703.56 of the Revised Code to the contrary, an organization, trust, or fund described in division (C) of this section bears the burden of establishing by a preponderance of the evidence that any transaction giving rise to a claim for a refundable credit under this section does not have as a principal purpose a claim for that credit. Nothing in this section shall be construed to limit solely to this section the application of the doctrines referred to in division (D)(2) of this section.

(E) Nothing in this section shall be construed to allow a



refund more than once with respect to the taxes imposed under 61747  
section 5733.41 or 5747.41 of the Revised Code. 61748

**Sec. 5733.09.** (A) ~~An~~ (1) Except as provided in divisions 61749  
(A)(2) and (3) of this section, an incorporated company, whether 61750  
foreign or domestic, owning and operating a public utility in this 61751  
state, and required by law to file reports with the tax 61752  
commissioner and to pay an excise tax upon its gross receipts, and 61753  
insurance, fraternal, beneficial, bond investment, and other 61754  
corporations required by law to file annual reports with the 61755  
superintendent of insurance and dealers in intangibles, the shares 61756  
of which are, or the capital or ownership in capital employed by 61757  
such dealer is, subject to the taxes imposed by section 5707.03 of 61758  
the Revised Code, shall not be subject to this chapter, except for 61759  
sections 5733.031, 5733.042, 5733.05, 5733.052, 5733.053, 61760  
5733.069, 5733.0611, 5733.40, 5733.41, and sections 5747.40 to 61761  
5747.453 of the Revised Code. However, for reports required to be 61762  
filed under section 5725.14 of the Revised Code in 2003 and 61763  
thereafter, nothing in this section shall be construed to exempt 61764  
the property of any dealer in intangibles under section 5725.13 of 61765  
the Revised Code from the tax imposed under section 5707.03 of the 61766  
Revised Code. ~~An~~ 61767

(2) An electric company subject to the filing requirements of 61768  
section 5727.08 of the Revised Code or otherwise having nexus with 61769  
or in this state under the Constitution of the United States, or 61770  
any other corporation having any gross receipts directly 61771  
attributable to providing public utility service as an electric 61772  
company or having any property directly attributable to providing 61773  
public utility service as an electric company, is subject to this 61774  
chapter. 61775

(3) A telephone company that no longer pays an excise tax 61776  
under section 5727.30 of the Revised Code on its gross receipts 61777

billed after June 30, 2004, is first subject to taxation under 61778  
this chapter for tax year 2005. For that tax year, a telephone 61779  
company with a taxable year ending in 2004 shall compute the tax 61780  
imposed under this chapter, and shall compute the net operating 61781  
loss carry forward for tax year 2005, by multiplying the tax owed 61782  
under this chapter, net of all nonrefundable credits, or the loss 61783  
for the taxable year, by fifty per cent. 61784

(B) A corporation that has made an election under subchapter 61785  
S, chapter one, subtitle A, of the Internal Revenue Code for its 61786  
taxable year under such code is exempt from the tax imposed by 61787  
section 5733.06 of the Revised Code that is based on that taxable 61788  
year. 61789

A corporation that makes such an election shall file a notice 61790  
of such election with the tax commissioner between the first day 61791  
of January and the thirty-first day of March of each tax year that 61792  
the election is in effect. 61793

(C) An entity defined to be a "real estate investment trust" 61794  
by section 856 of the Internal Revenue Code, a "regulated 61795  
investment company" by section 851 of the Internal Revenue Code, 61796  
or a "real estate mortgage investment conduit" by section 860D of 61797  
the Internal Revenue Code, is exempt from taxation for a tax year 61798  
as a corporation under this chapter and is exempt from taxation 61799  
for a return year as a dealer in intangibles under Chapter 5725. 61800  
of the Revised Code if it provides the report required by this 61801  
division. By the last day of March of the tax or return year the 61802  
entity shall submit to the tax commissioner the name of the entity 61803  
with a list of the names, addresses, and social security or 61804  
federal identification numbers of all investors, shareholders, and 61805  
other similar investors who owned any interest or invested in the 61806  
entity during the preceding calendar year. The commissioner may 61807  
extend the date by which the report must be submitted for 61808  
reasonable cause shown by the entity. The commissioner may 61809

prescribe the form of the report required for exemption under this 61810  
division. 61811

(D)(1) As used in this division: 61812

(a) "Commercial printer" means a person primarily engaged in 61813  
the business of commercial printing. However, "commercial printer" 61814  
does not include a person primarily engaged in the business of 61815  
providing duplicating services using photocopy machines or other 61816  
xerographic processes. 61817

(b) "Commercial printing" means printing by one or more 61818  
common processes such as letterpress, lithography, gravure, 61819  
screen, or digital imaging, and includes related activities such 61820  
as binding, platemaking, prepress operation, cartographic 61821  
composition, and typesetting. 61822

(c) "Contract for printing" means an oral or written 61823  
agreement for the purchase of printed materials produced by a 61824  
commercial printer. 61825

(d) "Intangible property located at the premises of a 61826  
commercial printer" means intangible property of any kind owned or 61827  
licensed by a customer of the commercial printer and furnished to 61828  
the commercial printer for use in commercial printing. 61829

(e) "Printed material" means any tangible personal property 61830  
produced or processed by a commercial printer pursuant to a 61831  
contract for printing. 61832

(f) "Related member" has the same meaning as in ~~division~~ 61833  
~~(A)(6)~~ of section 5733.042 of the Revised Code without regard to 61834  
division (B) of that section. 61835

(2) Except as provided in divisions (D)(3) and (4) of this 61836  
section, a corporation not otherwise subject to the tax imposed by 61837  
section 5733.06 of the Revised Code for a tax year does not become 61838  
subject to that tax for the tax year solely by reason of any one 61839

or more of the following occurring in this state during the 61840  
taxable year that ends immediately prior to the tax year: 61841

(a) Ownership by the corporation or a related member of the 61842  
corporation of tangible personal property or intangible property 61843  
located during all or any portion of the taxable year or on the 61844  
first day of the tax year at the premises of a commercial printer 61845  
with which the corporation or the corporation's related member has 61846  
a contract for printing with respect to such property or the 61847  
premises of a commercial printer's related member with which the 61848  
corporation or the corporation's related member has a contract for 61849  
printing with respect to such property; 61850

(b) Sales by the corporation or a related member of the 61851  
corporation of property produced at and shipped or distributed 61852  
from the premises of a commercial printer with which the 61853  
corporation or the corporation's related member has a contract for 61854  
printing with respect to such property or the premises of a 61855  
commercial printer's related member with which the corporation or 61856  
the corporation's related member has a contract for printing with 61857  
respect to such property; 61858

(c) Activities of employees, officers, agents, or contractors 61859  
of the corporation or a related member of the corporation on the 61860  
premises of a commercial printer with which the corporation or the 61861  
corporation's related member has a contract for printing or the 61862  
premises of a commercial printer's related member with which the 61863  
corporation or the corporation's related member has a contract for 61864  
printing, where the activities are directly and solely related to 61865  
quality control, distribution, or printing services, or any 61866  
combination thereof, performed by or at the direction of the 61867  
commercial printer or the commercial printer's related member. 61868

(3) The exemption under this division does not apply for a 61869  
taxable year to any corporation having on the first day of January 61870  
of the tax year or at any time during the taxable year ending 61871

immediately preceding the first day of January of the tax year a 61872  
related member which, on the first day of January of the tax year 61873  
or during any portion of such taxable year of the corporation, has 61874  
nexus in or with this state under the Constitution of the United 61875  
States or holds a certificate of compliance with the laws of this 61876  
state authorizing it to do business in this state. 61877

(4) With respect to allowing the exemption under this 61878  
division, the tax commissioner shall be guided by the doctrines of 61879  
"economic reality," "sham transaction," "step transaction," and 61880  
"substance over form." A corporation shall bear the burden of 61881  
establishing by a preponderance of the evidence that any 61882  
transaction giving rise to an exemption claimed under this 61883  
division did not have as a principal purpose the avoidance of any 61884  
portion of the tax imposed by section 5733.06 of the Revised Code. 61885

Application of the doctrines listed in division (D)(4) of 61886  
this section is not limited to this division. 61887

**Sec. 5733.121.** If a corporation entitled to a refund under 61888  
section 5733.11 or 5733.12 of the Revised Code is indebted to this 61889  
state for any tax, workers' compensation premium due under section 61890  
4123.35 of the Revised Code, unemployment compensation 61891  
contribution due under section 4141.25 of the Revised Code, or 61892  
unemployment compensation payment in lieu of contribution under 61893  
section 4141.241 of the Revised Code or fee ~~administered by the~~ 61894  
~~tax commissioner~~ that is paid to the state or to the clerk of 61895  
courts pursuant to section 4505.06 of the Revised Code, or any 61896  
charge, penalty, or interest arising from such a tax, workers' 61897  
compensation premium, unemployment compensation contribution, or 61898  
unemployment compensation payment in lieu of contribution under 61899  
section 4141.241 of the Revised Code or fee, the amount refundable 61900  
may be applied in satisfaction of the debt. If the amount 61901  
refundable is less than the amount of the debt, it may be applied 61902

in partial satisfaction of the debt. If the amount refundable is 61903  
greater than the amount of the debt, the amount remaining after 61904  
satisfaction of the debt shall be refunded. If the corporation has 61905  
more than one such debt, any debt subject to section 5739.33 or 61906  
division (G) of section 5747.07 of the Revised Code shall be 61907  
satisfied first. This section applies only to debts that have 61908  
become final. 61909

The tax commissioner may, with the consent of the taxpayer, 61910  
provide for the crediting, against tax due for any tax year, of 61911  
the amount of any refund due the taxpayer under this chapter for a 61912  
preceding tax year. 61913

**Sec. 5733.18.** Annually, on the day fixed for the payment of 61914  
any excise or franchise tax required to be paid by law, such tax, 61915  
together with any penalties subsequently accruing thereon, shall 61916  
become a lien on all property in this state of a corporation, 61917  
whether such property is employed by the corporation in the 61918  
prosecution of its business or is in the hands of an assignee, 61919  
trustee, or receiver for the benefit of the creditors and 61920  
stockholders. Such lien shall continue until such taxes, together 61921  
with any penalties subsequently accruing, are paid. 61922

Upon failure of such corporation to pay such tax on the day 61923  
fixed for payment, the tax commissioner may file, for which filing 61924  
no fee shall be charged, in the office of the county recorder in 61925  
each county in this state in which such corporation owns or has a 61926  
beneficial interest in real estate, notice of such lien containing 61927  
a brief description of such real estate. Such lien shall not be 61928  
valid as against any mortgagee, purchaser, or judgment creditor 61929  
whose rights have attached prior to the time such notice is so 61930  
filed in the county in which the real estate which is the subject 61931  
of such mortgage, purchase, or judgment lien is located. Such 61932  
notice shall be recorded in a book kept by the recorder, called 61933

the corporation franchise lien record, and indexed under the name 61934  
of the corporation charged with such tax. When such tax, together 61935  
with any penalties subsequently accruing thereon, has been paid, 61936  
the tax commissioner shall furnish to the corporation an 61937  
acknowledgment of such payment which the corporation may record 61938  
with the recorder of each county in which notice of such lien has 61939  
been filed, for which recording the recorder shall charge and 61940  
receive a base fee of two dollars for services and a housing trust 61941  
fund fee of two dollars pursuant to section 317.36 of the Revised 61942  
Code. 61943

**Sec. 5733.22.** (A)(1) Any corporation whose articles of 61944  
incorporation or license certificate to do or transact business in 61945  
this state has been canceled by the secretary of state pursuant to 61946  
section 5733.20 of the Revised Code for failure to make any report 61947  
or return or to pay any tax or fee, shall be reinstated and again 61948  
entitled to exercise its rights, privileges, and franchises in 61949  
this state, and the secretary of state shall cancel the entry of 61950  
cancellation to exercise its rights, privileges, and franchises 61951  
upon compliance with all of the following: 61952

(a) Payment to the secretary of state of any additional fees 61953  
and penalties required to be paid to the secretary of state; 61954

(b) Filing with the secretary of state a certificate from the 61955  
tax commissioner that it has complied with all the requirements of 61956  
law as to franchise or excise tax reports and paid all franchise 61957  
or excise taxes, fees, or penalties due thereon for every year of 61958  
its delinquency; 61959

(c) Payment to the secretary of state of an additional fee of 61960  
ten dollars. 61961

(2) The applicant for reinstatement shall be required by the 61962  
secretary of state, as a condition prerequisite to such 61963  
reinstatement, to amend its articles by changing its name if all 61964

of the following apply: 61965

(a) The reinstatement is not made within one year from the 61966  
date of the cancellation of its articles of incorporation or date 61967  
of the cancellation of its license to do business; 61968

(b) It appears that the applicant's articles of incorporation 61969  
or license certificate has been issued to another entity and is 61970  
not distinguishable upon the record from the name of the 61971  
applicant; 61972

(c) It appears that the articles of organization of a limited 61973  
liability company, registration of a foreign limited liability 61974  
company, certificate of limited partnership, registration of a 61975  
foreign limited partnership, registration of a domestic or foreign 61976  
limited liability partnership, or registration of a trade name has 61977  
been issued to another entity and is not distinguishable upon the 61978  
record from the name of the applicant. A certificate of 61979  
reinstatement may be filed in the recorder's office of any county 61980  
in the state, for which the recorder shall charge and collect a 61981  
base fee of three dollars for services and a housing trust fund 61982  
fee of three dollars pursuant to section 317.36 of the Revised 61983  
Code. 61984

Any officer, shareholder, creditor, or receiver of any such 61985  
corporation may at any time take all steps required by this 61986  
section to effect such reinstatement. 61987

(B) The rights, privileges, and franchises of a corporation 61988  
whose articles of incorporation have been reinstated in accordance 61989  
with this section, are subject to section 1701.922 of the Revised 61990  
Code. 61991

(C) Notwithstanding a violation of section 5733.21 of the 61992  
Revised Code, upon reinstatement of a corporation's articles of 61993  
incorporation in accordance with this section, neither section 61994  
5733.20 nor section 5733.21 of the Revised Code shall be applied 61995



to invalidate the exercise or attempt to exercise any right, 61996  
privilege, or franchise on behalf of the corporation by an 61997  
officer, agent, or employee of the corporation after cancellation 61998  
and prior to the reinstatement of the articles, if the conditions 61999  
set forth in divisions (B)(1)(a) and (b) of section 1701.922 of 62000  
the Revised Code are met. 62001

**Sec. 5733.45.** (A) For purposes of this section, a "qualifying 62002  
dealer in intangibles" is a dealer in intangibles that is a member 62003  
of a qualifying controlled group of which a financial institution 62004  
is also a member on the first day of the financial institution's 62005  
tax year. 62006

(B) For tax years 2002 and thereafter, there is hereby 62007  
allowed to each financial institution a nonrefundable credit 62008  
against the tax imposed by section 5733.06 of the Revised Code. 62009  
The amount of the credit shall be computed in accordance with 62010  
division (C) of this section. The credit shall be claimed in the 62011  
order prescribed by section 5733.98 of the Revised Code. The 62012  
credit shall not exceed the amount of tax otherwise due under 62013  
section 5733.06 of the Revised Code after deducting any other 62014  
credits that precede the credit claimed under this section in that 62015  
order. 62016

(C) Subject to division (D) of this section, the amount of 62017  
the nonrefundable credit is the lesser of the amount described in 62018  
division (C)(1) of this section or the amount described in 62019  
division (C)(2) of this section. 62020

(1) The amount of tax that a qualifying dealer in intangibles 62021  
paid under Chapter 5707. of the Revised Code during the calendar 62022  
year immediately preceding the financial institution's tax year. 62023  
Such amount shall be reduced, but not below zero, by any refunds 62024  
of such tax received by the qualifying dealer in intangibles under 62025  
Chapter 5703. of the Revised Code during that calendar year. 62026

(2) The product of the amounts described in division 62027  
(C)(2)(a) to (C)(2)(c) of this section. The amount described in 62028  
division (C)(2)(a) of this section shall be ascertained on the 62029  
last day of the financial institution's taxable year immediately 62030  
preceding the tax year. 62031

(a) The cost of the financial institution's direct investment 62032  
in the capital stock of the qualifying dealer in intangibles. The 62033  
cost does not include any appreciation or goodwill to the extent 62034  
those amounts are allowed as an exempted asset on the financial 62035  
institution's annual report. 62036

(b) The ratio described in section 5725.15 of the Revised 62037  
Code for the calendar year immediately preceding the financial 62038  
institution's tax year; 62039

(c) The tax rate imposed under division (D) of section 62040  
5707.03 of the Revised Code for the calendar year immediately 62041  
preceding the financial institution's tax year. 62042

(D)(1) The principles and concepts set forth in section 62043  
5733.057 of the Revised Code shall apply to ascertain if a dealer 62044  
in intangibles is a member of a qualifying controlled group of 62045  
which the financial institution also is a member and to ascertain 62046  
the cost of the financial institution's direct investment in the 62047  
capital stock of the qualifying dealer in intangibles. 62048

(2) Notwithstanding section ~~5733.111~~ 5703.56 of the Revised 62049  
Code to the contrary, a financial institution claiming the credit 62050  
provided by this section has the burden to establish by a 62051  
preponderance of the evidence that none of the doctrines 62052  
enumerated in that section would apply to deny to the financial 62053  
institution all or a part of the credit otherwise provided by this 62054  
section. 62055

(E) For tax years 2002 and 2003, the credit allowed by this 62056  
section applies only if the qualifying dealer in intangibles on 62057

account of which the financial institution is claiming the credit 62058  
submits to the ~~Tax Commissioner~~ tax commissioner, not later than 62059  
January 15, 2002, a written statement that the qualifying dealer 62060  
in intangibles irrevocably agrees that it will not seek a refund 62061  
of the tax paid by the dealer under section 5707.03 of the Revised 62062  
Code in 2000 and 2001, and irrevocably agrees to continue paying 62063  
that tax in 2002, regardless of the amendment of section 5725.26 62064  
of the Revised Code by Am. Sub. H.B. 405 of the 124th general 62065  
assembly. 62066

Sec. 5733.55. (A) As used in this section: 62067

(1) "9-1-1 system" has the same meaning as in section 4931.40 62068  
of the Revised Code. 62069

(2) "Nonrecurring 9-1-1 charges" means nonrecurring charges 62070  
approved by the public utilities commission for the telephone 62071  
network portion of a 9-1-1 system pursuant to section 4931.47 of 62072  
the Revised Code. 62073

(3) "Eligible nonrecurring 9-1-1 charges" means all 62074  
nonrecurring 9-1-1 charges for a 9-1-1 system, except: 62075

(a) Charges for a system that was not established pursuant to 62076  
a plan adopted under section 4931.44 of the Revised Code or an 62077  
agreement under section 4931.48 of the Revised Code; 62078

(b) Charges for that part of a system established pursuant to 62079  
such a plan or agreement that are excluded from the credit by 62080  
division (C)(2) of section 4931.47 of the Revised Code. 62081

(4) "Telephone company" has the same meaning as in section 62082  
5727.01 of the Revised Code. 62083

(B) Beginning in tax year 2005, a telephone company shall be 62084  
allowed a nonrefundable credit against the tax imposed by section 62085  
5733.06 of the Revised Code equal to the amount of its eligible 62086  
nonrecurring 9-1-1 charges. The credit shall be claimed for the 62087

company's taxable year that covers the period in which the 9-1-1 62088  
service for which the credit is claimed becomes available for use. 62089  
The credit shall be claimed in the order required by section 62090  
5733.98 of the Revised Code. If the credit exceeds the total taxes 62091  
due under section 5733.06 of the Revised Code for the tax year, 62092  
the commissioner shall credit the excess against taxes due under 62093  
that section for succeeding tax years until the full amount of the 62094  
credit is granted. 62095

(C) After the last day a return, with any extensions, may be 62096  
filed by any telephone company that is eligible to claim a credit 62097  
under this section, the commissioner shall determine whether the 62098  
sum of the credits allowed for prior tax years commencing with tax 62099  
year 2005 plus the sum of the credits claimed for the current tax 62100  
year exceeds fifteen million dollars. If it does, the credits 62101  
allowed under this section for the current tax year shall be 62102  
reduced by a uniform percentage such that the sum of the credits 62103  
allowed for the current tax year do not exceed fifteen million 62104  
dollars claimed by all telephone companies for all tax years. 62105  
Thereafter, no credit shall be granted under this section, except 62106  
for the remaining portions of any credits allowed under division 62107  
(B) of this section. 62108

(D) A telephone company that is entitled to carry forward a 62109  
credit against its public utility excise tax liability under 62110  
section 5727.39 of the Revised Code is entitled to carry forward 62111  
any amount of that credit remaining after its last public utility 62112  
excise tax payment for the period of July 1, 2003, through June 62113  
30, 2004, and claim that amount as a credit against its 62114  
corporation franchise tax liability under this section. Nothing in 62115  
this section authorizes a telephone company to claim a credit 62116  
under this section for any eligible nonrecurring 9-1-1 charges for 62117  
which it has already claimed a credit under section 5727.39 of the 62118  
Revised Code. 62119

Sec. 5733.56. Beginning in tax year 2005, a telephone company 62120  
that provides any telephone service program to aid the 62121  
communicatively impaired in accessing the telephone network under 62122  
section 4905.79 of the Revised Code is allowed a nonrefundable 62123  
credit against the tax imposed by section 5733.06 of the Revised 62124  
Code. The amount of the credit is the cost incurred by the company 62125  
for providing the telephone service program during its taxable 62126  
year, excluding any costs incurred prior to July 1, 2004. If the 62127  
tax commissioner determines that the credit claimed under this 62128  
section by a telephone company was not correct, the commissioner 62129  
shall determine the proper credit. 62130

A telephone company shall claim the credit in the order 62131  
required by section 5733.98 of the Revised Code. If the credit 62132  
exceeds the total taxes due under section 5733.06 of the Revised 62133  
Code for the tax year, the commissioner shall credit the excess 62134  
against taxes due under that section for succeeding tax years 62135  
until the full amount of the credit is granted. Nothing in this 62136  
section authorizes a telephone company to claim a credit under 62137  
this section for any costs incurred for providing a telephone 62138  
service program for which it is claiming a credit under section 62139  
5727.44 of the Revised Code. 62140

Sec. 5733.57. (A) As used in this section: 62141

(1) "Small telephone company" means a telephone company, 62142  
existing as such as of January 1, 2003, with twenty-five thousand 62143  
or fewer access lines as shown on the company's annual report 62144  
filed under section 4905.14 of the Revised Code for the calendar 62145  
year immediately preceding the tax year, and is an "incumbent 62146  
local exchange carrier" under 47 U.S.C. 251(h). 62147

(2) "Gross receipts tax amount" means the product obtained by 62148  
multiplying four and three-fourths per cent by the amount of a 62149

small telephone company's taxable gross receipts, excluding the 62150  
deduction of twenty-five thousand dollars, that the tax 62151  
commissioner would have determined under section 5727.33 of the 62152  
Revised Code for that small telephone company for the annual 62153  
period ending on the thirtieth day of June of the calendar year 62154  
immediately preceding the tax year, as that section applied in the 62155  
measurement period from July 1, 2002, to June 30, 2003. 62156

(3) "Applicable percentage" means one hundred per cent for 62157  
tax year 2005; eighty per cent for tax year 2006; sixty per cent 62158  
for tax year 2007; forty per cent for tax year 2008; twenty per 62159  
cent for tax year 2009; and zero per cent for each subsequent tax 62160  
year thereafter. 62161

(4) "Applicable amount" means the amount resulting from 62162  
subtracting the gross receipts tax amount from the tax imposed by 62163  
sections 5733.06, 5733.065, and 5733.066 of the Revised Code for 62164  
the tax year, without regard to any credits available to the small 62165  
telephone company. 62166

(B)(1) Except as provided in division (B)(2) of this section, 62167  
beginning in tax year 2005, a small telephone company is hereby 62168  
allowed a nonrefundable credit against the tax imposed by sections 62169  
5733.06, 5733.065, and 5733.066 of the Revised Code, equal to the 62170  
product obtained by multiplying the applicable percentage by the 62171  
applicable amount. The credit shall be claimed in the order 62172  
required by section 5733.98 of the Revised Code. 62173

(2) If the applicable amount for a tax year is less than 62174  
zero, a small telephone company shall not be allowed for that tax 62175  
year the credit provided under this section. 62176

**Sec. 5733.98.** (A) To provide a uniform procedure for 62177  
calculating the amount of tax imposed by section 5733.06 of the 62178  
Revised Code that is due under this chapter, a taxpayer shall 62179  
claim any credits to which it is entitled in the following order, 62180

except as otherwise provided in section 5733.058 of the Revised Code:	62181
	62182
(1) The credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;	62183
	62184
(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;	62185
	62186
(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;	62187
	62188
(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;	62189
	62190
(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;	62191
	62192
(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	62193
	62194
(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;	62195
	62196
(8) The credit for employers that reimburse employee child day-care expenses under section 5733.38 of the Revised Code;	62197
	62198
(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	62199
	62200
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	62201
	62202
(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;	62203
	62204
(12) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of <del>th</del> <u>the</u> Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;	62205
	62206
	62207
	62208
(13) The credit for purchases of new manufacturing machinery	62209

and equipment under section 5733.31 or section 5733.311 of the Revised Code;	62210 62211
(14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	62212 62213
(15) The job training credit under section 5733.42 of the Revised Code;	62214 62215
(16) The credit for qualified research expenses under section 5733.351 of the Revised Code;	62216 62217
(17) The enterprise zone credit under section 5709.66 of the Revised Code;	62218 62219
(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	62220 62221
(19) The credit for employers that establish on-site child day-care under section 5733.37 of the Revised Code;	62222 62223
(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;	62224 62225
(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	62226 62227
(22) The export sales credit under section 5733.069 of the Revised Code;	62228 62229
(23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	62230 62231
(24) The enterprise zone credits under section 5709.65 of the Revised Code;	62232 62233
(25) The credit for using Ohio coal under section 5733.39 of the Revised Code;	62234 62235
(26) <u>The credit for small telephone companies under section 5733.57 of the Revised Code;</u>	62236 62237
(27) <u>The credit for eligible nonrecurring 9-1-1 charges under</u>	62238



<u>section 5733.55 of the Revised Code;</u>	62239
<u>(28) The credit for providing programs to aid the</u>	62240
<u>communicatively impaired under section 5733.56 of the Revised</u>	62241
<u>Code;</u>	62242
<u>(29) The refundable jobs creation credit under division (A)</u>	62243
<u>of section 5733.0610 of the Revised Code;</u>	62244
<del>(27)</del> <u>(30) The refundable credit for tax withheld under</u>	62245
<u>division (B)(2) of section 5747.062 of the Revised Code;</u>	62246
<del>(28)</del> <u>(31) The credit for losses on loans made to the Ohio</u>	62247
<u>venture capital program under sections 150.01 to 150.10 of the</u>	62248
<u>Revised Code if the taxpayer elected a refundable credit under</u>	62249
<u>section 150.07 of the Revised Code.</u>	62250
(B) For any credit except the credits enumerated in divisions	62251
(A) <del>(26)</del> , <del>(27)</del> , <u>(29)</u> , <u>(30)</u> , and <del>(28)</del> <u>(31)</u> of this section, the amount	62252
of the credit for a tax year shall not exceed the tax due after	62253
allowing for any other credit that precedes it in the order	62254
required under this section. Any excess amount of a particular	62255
credit may be carried forward if authorized under the section	62256
creating that credit.	62257
<b>Sec. 5735.05.</b> (A) To provide revenue for maintaining the	62258
state highway system; to widen existing surfaces on such highways;	62259
to resurface such highways; to pay that portion of the	62260
construction cost of a highway project which a county, township,	62261
or municipal corporation normally would be required to pay, but	62262
which the director of transportation, pursuant to division (B) of	62263
section 5531.08 of the Revised Code, determines instead will be	62264
paid from moneys in the highway operating fund; to enable the	62265
counties of the state properly to plan, maintain, and repair their	62266
roads and to pay principal, interest, and charges on bonds and	62267
other obligations issued pursuant to Chapter 133. of the Revised	62268

Code for highway improvements; to enable the municipal 62269  
corporations to plan, construct, reconstruct, repave, widen, 62270  
maintain, repair, clear, and clean public highways, roads, and 62271  
streets, and to pay the principal, interest, and charges on bonds 62272  
and other obligations issued pursuant to Chapter 133. of the 62273  
Revised Code for highway improvements; to enable the Ohio turnpike 62274  
commission to construct, reconstruct, maintain, and repair 62275  
turnpike projects; to maintain and repair bridges and viaducts; to 62276  
purchase, erect, and maintain street and traffic signs and 62277  
markers; to purchase, erect, and maintain traffic lights and 62278  
signals; to pay the costs apportioned to the public under sections 62279  
4907.47 and 4907.471 of the Revised Code and to supplement revenue 62280  
already available for such purposes; to pay the costs incurred by 62281  
the public utilities commission in administering sections 4907.47 62282  
to 4907.476 of the Revised Code; to distribute equitably among 62283  
those persons using the privilege of driving motor vehicles upon 62284  
such highways and streets the cost of maintaining and repairing 62285  
them; to pay the interest, principal, and charges on highway 62286  
capital improvements bonds and other obligations issued pursuant 62287  
to Section 2m of Article VIII, Ohio Constitution, and section 62288  
151.06 of the Revised Code; to pay the interest, principal, and 62289  
charges on highway obligations issued pursuant to Section 2i of 62290  
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 62291  
of the Revised Code; ~~and~~ to provide revenue for the purposes of 62292  
sections 1547.71 to 1547.78 of the Revised Code; and to pay the 62293  
expenses of the department of taxation incident to the 62294  
administration of the motor fuel laws, a motor fuel excise tax is 62295  
hereby imposed on all motor fuel dealers upon receipt of motor 62296  
fuel within this state at the rate of two cents plus the cents per 62297  
gallon rate on each gallon so received, to be computed in the 62298  
manner set forth in section 5735.06 of the Revised Code; provided 62299  
that no tax is hereby imposed upon the following transactions: 62300  
  
(1) The sale of dyed diesel fuel by a licensed motor fuel 62301

dealer from a location other than a retail service station 62302  
provided the licensed motor fuel dealer places on the face of the 62303  
delivery document or invoice, or both if both are used, a 62304  
conspicuous notice stating that the fuel is dyed and is not for 62305  
taxable use, and that taxable use of that fuel is subject to a 62306  
penalty. The tax commissioner, by rule, may provide that any 62307  
notice conforming to rules or regulations issued by the United 62308  
States department of the treasury or the Internal Revenue Service 62309  
is sufficient notice for the purposes of division (A)(1) of this 62310  
section. 62311

(2) The sale of K-1 kerosene to a retail service station, 62312  
except when placed directly in the fuel supply tank of a motor 62313  
vehicle. Such sale shall be rebuttably presumed to not be 62314  
distributed or sold for use or used to generate power for the 62315  
operation of motor vehicles upon the public highways or upon the 62316  
waters within the boundaries of this state. 62317

(3) The sale of motor fuel by a licensed motor fuel dealer to 62318  
another licensed motor fuel dealer; 62319

(4) The exportation of motor fuel by a licensed motor fuel 62320  
dealer from this state to any other state or foreign country; 62321

(5) The sale of motor fuel to the United States government or 62322  
any of its agencies, except such tax as is permitted by it, where 62323  
such sale is evidenced by an exemption certificate, in a form 62324  
approved by the tax commissioner, executed by the United States 62325  
government or an agency thereof certifying that the motor fuel 62326  
therein identified has been purchased for the exclusive use of the 62327  
United States government or its agency; 62328

(6) The sale of motor fuel ~~which that~~ is in the process of 62329  
transportation in foreign or interstate commerce, except ~~in so far~~ 62330  
insofar as it may be taxable under the Constitution and statutes 62331  
of the United States, and except as may be agreed upon in writing 62332

by the dealer and the commissioner; 62333

(7) The sale of motor fuel when sold exclusively for use in 62334  
the operation of aircraft, where such sale is evidenced by an 62335  
exemption certificate prescribed by the commissioner and executed 62336  
by the purchaser certifying that the motor fuel purchased has been 62337  
purchased for exclusive use in the operation of aircraft; 62338

(8) The sale for exportation of motor fuel by a licensed 62339  
motor fuel dealer to a licensed exporter type A; 62340

(9) The sale for exportation of motor fuel by a licensed 62341  
motor fuel dealer to a licensed exporter type B, provided that the 62342  
destination state motor fuel tax has been paid or will be accrued 62343  
and paid by the licensed motor fuel dealer. 62344

(10) The sale to a consumer of diesel fuel, by a motor fuel 62345  
dealer for delivery from a bulk lot vehicle, for consumption in 62346  
operating a vessel when the use of such fuel in a vessel would 62347  
otherwise qualify for a refund under section 5735.14 of the 62348  
Revised Code. 62349

Division (A)(1) of this section does not apply to the sale or 62350  
distribution of dyed diesel fuel used to operate a motor vehicle 62351  
on the public highways or upon water within the boundaries of this 62352  
state by persons permitted under regulations of the United States 62353  
department of the treasury or of the Internal Revenue Service to 62354  
so use dyed diesel fuel. 62355

(B) The two cent motor fuel tax levied by this section is 62356  
also for the purpose of paying the expenses of administering and 62357  
enforcing the state law relating to the registration and operation 62358  
of motor vehicles. 62359

(C) After the tax provided for by this section on the receipt 62360  
of any motor fuel has been paid by the motor fuel dealer, the 62361  
motor fuel may thereafter be used, sold, or resold by any person 62362  
having lawful title to it, without incurring liability for such 62363

tax. 62364

If a licensed motor fuel dealer sells motor fuel received by 62365  
the licensed motor fuel dealer to another licensed motor fuel 62366  
dealer, the seller may deduct on the report required by section 62367  
5735.06 of the Revised Code the number of gallons so sold for the 62368  
month within which the motor fuel was sold or delivered. In this 62369  
event the number of gallons is deemed to have been received by the 62370  
purchaser, who shall report and pay the tax imposed thereon. 62371

Sec. 5735.053. There is hereby created in the state treasury 62372  
the motor fuel tax administration fund for the purpose of paying 62373  
the expenses of the department of taxation incident to the 62374  
administration of the motor fuel laws. After the treasurer of 62375  
state credits the tax refund fund out of tax receipts as required 62376  
by sections 5735.23, 5735.26, 5735.291, and 5735.30 of the Revised 62377  
Code, the treasurer of state shall transfer to the motor fuel tax 62378  
administration fund two hundred seventy-five one-thousandths per 62379  
cent of the receipts from the taxes levied by sections 5735.05, 62380  
5735.25, 5735.29, and 5735.30 of the Revised Code. 62381

**Sec. 5735.14.** (A) Any person who uses any motor fuel, on 62382  
which the tax imposed by this chapter has been paid, for the 62383  
purpose of operating stationary gas engines, tractors not used on 62384  
public highways, unlicensed motor vehicles used exclusively in 62385  
intraplant operations, vessels when used in trade, including 62386  
vessels when used in connection with an activity that constitutes 62387  
a person's chief business or means of livelihood or any other 62388  
vessel used entirely for commercial purposes, vessels used for 62389  
commercial fishing, vessels used by the sea scout department of 62390  
the boy scouts of America chiefly for training scouts in 62391  
seamanship, vessels used or owned by any railroad company, 62392  
railroad car ferry company, the United States, this state, or any 62393  
political subdivision of this state, or aircraft, or who uses any 62394

such fuel upon which such tax has been paid, for cleaning or for 62395  
dyeing, or any purpose other than the operation of motor vehicles 62396  
upon highways or upon waters within the boundaries of this state, 62397  
shall be reimbursed in the amount of the tax so paid on such motor 62398  
fuel as provided in this section; provided, that any person 62399  
purchasing motor fuel in this state on which taxes levied under 62400  
Title LVII of the Revised Code have been paid shall be reimbursed 62401  
for such taxes paid in this state on such fuel used by that person 62402  
in another state on which a tax is paid for such usage, except 62403  
such tax used as a credit against the tax levied by section 62404  
5728.06 of the Revised Code. A person shall not be reimbursed for 62405  
taxes paid on fuel that is used while a motor vehicle is idling or 62406  
used to provide comfort or safety in the operation of a motor 62407  
vehicle. Sales of motor fuel, on which the tax imposed by this 62408  
chapter has been paid, from one person to another do not 62409  
constitute use of the fuel and are not subject to a refund under 62410  
this section. 62411

Such (B) Any person who uses in this state any motor fuel 62412  
with water intentionally added to the fuel, on which the taxes 62413  
imposed by this chapter or Chapter 5728. of the Revised Code have 62414  
been paid, shall be reimbursed in the amount of the taxes so paid 62415  
on ninety-five per cent of the water. This division applies only 62416  
to motor fuel that contains at least nine per cent water, by 62417  
volume. 62418

(C) A person claiming reimbursement under this section shall 62419  
file with the tax commissioner an application for refund within 62420  
one year from the date of purchase, stating the quantity of fuel 62421  
used for the refundable purposes other than the operation of motor 62422  
vehicles in division (A) or (B) of this section, except that no 62423  
person shall file a claim for the tax on fewer than one hundred 62424  
gallons of motor fuel. An application for refund filed for the 62425  
purpose of division (B) of this section also shall state the 62426

quantity of water intentionally added to the motor fuel. No person 62427  
shall claim reimbursement under that division on fewer than one 62428  
hundred gallons of water. The application shall be accompanied by 62429  
the statement described in section 5735.15 of the Revised Code 62430  
showing such purchase, together with evidence of payment thereof. 62431

(D) After consideration of the application and statement, the 62432  
commissioner shall determine the amount of refund to which the 62433  
applicant is entitled. If the amount is not less than that 62434  
claimed, the commissioner shall certify the amount to the director 62435  
of budget and management and treasurer of state for payment from 62436  
the tax refund fund created by section 5703.052 of the Revised 62437  
Code. If the amount is less than that claimed, the commissioner 62438  
shall proceed in accordance with section 5703.70 of the Revised 62439  
Code. 62440

No refund shall be authorized or paid under this section on a 62441  
single claim for tax on fewer than one hundred gallons of motor 62442  
fuel. And, when water has been intentionally added to fuel, no 62443  
refund shall be authorized or paid under this section on a single 62444  
claim for tax on fewer than one hundred gallons of water. The 62445  
commissioner may require that the application be supported by the 62446  
affidavit of the claimant. 62447

The refund authorized by this section or section 5703.70 of 62448  
the Revised Code shall be reduced by the cents per gallon amount 62449  
of any qualified fuel credit received under section 5735.145 of 62450  
the Revised Code, as determined by the commissioner, for each 62451  
gallon of qualified fuel included in the total gallonage of motor 62452  
fuel upon which the refund is computed. 62453

(E) The right to receive any refund under this section or 62454  
section 5703.70 of the Revised Code is not assignable. The payment 62455  
of this refund shall not be made to any person other than the 62456  
person originally entitled thereto who used the motor fuel upon 62457  
which the claim for refund is based, except that such refunds, 62458

when allowed and certified as provided in this section, may be 62459  
paid to the executor, ~~the~~ administrator, ~~the~~ receiver, ~~the~~ trustee 62460  
in bankruptcy, or ~~the~~ assignee in insolvency proceedings of such 62461  
person. 62462

**Sec. 5735.15.** When motor fuel is sold to a person who claims 62463  
to be entitled to a refund under section 5735.14 or 5735.142 of 62464  
the Revised Code, the seller of such motor fuel shall ~~make out in~~ 62465  
~~duplicate on forms prescribed and supplied by the tax~~ 62466  
~~commissioner, which forms shall have printed thereon~~ provide to 62467  
the person documentation that indicates that the liability to the 62468  
state for the excise tax imposed under the motor fuel laws of this 62469  
state on such motor fuel has been assumed by the seller, and that 62470  
said excise tax has already been paid or will be paid by the 62471  
seller when the same becomes payable, ~~a statement setting. The~~ 62472  
documentation also shall set forth the name and address of the 62473  
purchaser, the number of gallons of motor fuel sold, the price 62474  
paid for or the price per gallon of the motor fuel sold, the 62475  
proposed use for which such motor fuel is purchased, and such 62476  
other information as the commissioner requires. When motor fuel is 62477  
sold to a person who claims to be entitled to reimbursement under 62478  
division (B) of section 5735.14 of the Revised Code, the 62479  
documentation also shall state the number of gallons of water 62480  
intentionally added to the motor fuel. The ~~original of such~~ 62481  
~~statement~~ documentation shall be given to the purchaser, and ~~the~~ 62482  
~~duplicate~~ a copy shall be retained by the seller. 62483

**Sec. 5735.19.** (A) The tax commissioner may examine, during 62484  
the usual business hours of the day, the records, books, ~~and~~ 62485  
~~papers~~ invoices, storage tanks, and any other equipment of any 62486  
motor fuel dealer, retail dealer, exporter, terminal operator, 62487  
purchaser, or common carrier pertaining to motor fuel received, 62488  
sold, shipped, or delivered, to determine whether the taxes 62489



imposed by this chapter have been paid and to verify the truth and 62490  
accuracy of any statement, report, or return. The 62491

(B) The tax commissioner may, in the enforcement of the motor 62492  
fuel laws of this state, hold hearings, take the testimony of any 62493  
person, issue subpoenas and compel the attendance of witnesses, 62494  
and conduct such investigations as the commissioner deems 62495  
necessary, but no person shall disclose the information acquired 62496  
by the commissioner under this section, except when required to do 62497  
so in court. Such information or evidence is not privileged when 62498  
used by the state or any officer thereof in any proceeding for the 62499  
collection of the tax, or any prosecution for violation of the 62500  
motor fuel laws. 62501

(C) The commissioner may prescribe all forms upon which 62502  
reports shall be made to the commissioner, forms for claims for 62503  
refund presented to the commissioner, or forms of records to be 62504  
used by motor fuel dealers. 62505

(D)(1) As used in this division, "designated inspection site" 62506  
means any state highway inspection station, weigh station, mobile 62507  
station, or other similar location designated by the tax 62508  
commissioner to be used as a fuel inspection site. 62509

(2) An employee of the department of taxation that is so 62510  
authorized by the tax commissioner may physically inspect, 62511  
examine, or otherwise search any tank, reservoir, or other 62512  
container that can or may be used for the production, storage, or 62513  
transportation of fuel, fuel dyes, or fuel markers, and books and 62514  
records, if any, that are maintained at the place of inspection 62515  
and are kept to determine tax liability under this chapter. 62516  
Inspections may be performed at any place at which motor fuel is 62517  
or may be produced or stored, or at any designated inspection 62518  
site. 62519

(3) An employee of the department of taxation who is a duly 62520

authorized enforcement agent may detain any motor vehicle, train, barge, ship, or vessel for the purpose of inspecting its fuel tanks and storage tanks. Detainment shall be on the premises under inspection or at a designated inspection site. Detainment may continue for a reasonable period of time as is necessary to determine the amount and composition of the fuel.

(4) Any employee described in division (D)(2) or (3) of this section who has been properly trained may take and remove samples of fuel in quantities as are reasonably necessary to determine the composition of the fuel.

(5) No person shall refuse to allow an inspection under division (D) of this section. Any person who refuses to allow an inspection shall be subject to revocation or cancellation of any license or permit issued under Chapter 5728. or 5735. of the Revised Code.

**Sec. 5735.23.** (A) Out of receipts from the tax levied by section 5735.05 of the Revised Code, the treasurer of state shall place to the credit of the tax refund fund established by section 5703.052 of the Revised Code amounts equal to the refunds certified by the tax commissioner pursuant to sections 5735.13, 5735.14, 5735.141, 5735.142, and 5735.16 of the Revised Code. 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 4907.472 of the Revised Code to the grade crossing protection fund, and the amount required by section 5735.053 of the Revised Code to the motor fuel tax administration fund.

(B) Except as provided in division (D) of this section, each month the balance of the receipts from the tax levied by section 5735.05 of the Revised Code shall be credited, after receipt by the treasurer of state of certification from the commissioners of

the sinking fund, as required by section 5528.35 of the Revised Code, that there are sufficient moneys to the credit of the highway obligations bond retirement fund 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 during the current calendar year, as follows:

(1) To the state and local government highway distribution fund, which is hereby created in the state treasury, an amount that is the same percentage of the balance to be credited as that portion of the tax per gallon determined under division (B)(2)(a) of section 5735.06 of the Revised Code is of the total tax per gallon determined under divisions (B)(2)(a) and (b) of that section.

(2) After making the distribution to the state and local government highway distribution fund, the remainder shall be credited as follows:

(a) Thirty per cent to the gasoline excise tax fund for distribution pursuant to division (A)(1) of section 5735.27 of the Revised Code;

(b) Twenty-five per cent to the gasoline excise tax fund for distribution pursuant to division (A)(3) of section 5735.27 of the Revised Code;

(c) Except as provided in division (D) of this section, forty-five per cent to the highway operating fund for distribution pursuant to division (B)(1) of section 5735.27 of the Revised Code.

(C) From the balance in the state and local government highway distribution fund on the last day of each month there shall be paid the following amounts:

(1) To the local transportation improvement program fund

created by section 164.14 of the Revised Code, an amount equal to 62583  
a fraction of the balance in the state and local government 62584  
highway distribution fund, the numerator of which fraction is one 62585  
and the denominator of which fraction is that portion of the tax 62586  
per gallon determined under division (B)(2)(a) of section 5735.06 62587  
of the Revised Code; 62588

(2) An amount equal to five cents multiplied by the number of 62589  
gallons of motor fuel sold at stations operated by the Ohio 62590  
turnpike commission, such gallonage to be certified by the 62591  
commission to the treasurer of state not later than the last day 62592  
of the month following. The funds paid to the commission pursuant 62593  
to this section shall be expended for the construction, 62594  
reconstruction, maintenance, and repair of turnpike projects, 62595  
except that the funds may not be expended for the construction of 62596  
new interchanges. The funds also may be expended for the 62597  
construction, reconstruction, maintenance, and repair of those 62598  
portions of connecting public roads that serve existing 62599  
interchanges and are determined by the commission and the director 62600  
of transportation to be necessary for the safe merging of traffic 62601  
between the turnpike and those public roads. 62602

The remainder of the balance shall be distributed as follows 62603  
on the fifteenth day of the following month: 62604

(a) Ten and seven-tenths per cent shall be paid to municipal 62605  
corporations for distribution pursuant to division (A)(1) of 62606  
section 5735.27 of the Revised Code and may be used for any 62607  
purpose for which payments received under that division may be 62608  
used. Beginning August 15, 2004, the sum of two hundred 62609  
forty-eight thousand six hundred twenty-five dollars shall be 62610  
~~annually~~ monthly subtracted from the amount so computed and 62611  
credited to the highway operating fund. 62612

(b) Five per cent shall be paid to townships for distribution 62613  
pursuant to division (A)(5) of section 5735.27 of the Revised Code 62614

and may be used for any purpose for which payments received under 62615  
that division may be used. Beginning August 15, 2004, the sum of 62616  
eighty-seven thousand seven hundred fifty dollars shall be 62617  
~~annually~~ monthly subtracted from the amount so computed and 62618  
credited to the highway operating fund. 62619

(c) Nine and three-tenths per cent shall be paid to counties 62620  
for distribution pursuant to division (A)(3) of section 5735.27 of 62621  
the Revised Code and may be used for any purpose for which 62622  
payments received under that division may be used. Beginning 62623  
August 15, 2004, the sum of two hundred forty-eight thousand six 62624  
hundred twenty-five dollars shall be ~~annually~~ monthly subtracted 62625  
from the amount so computed and credited to the highway operating 62626  
fund. 62627

(d) Except as provided in division (D) of this section, the 62628  
balance shall be transferred to the highway operating fund and 62629  
used for the purposes set forth in division (B)(1) of section 62630  
5735.27 of the Revised Code. 62631

(D) Beginning on the first day of September each fiscal year, 62632  
any amounts required to be credited or transferred to the highway 62633  
operating fund pursuant to division (B)(2)(c) or (C)(2)(d) of this 62634  
section shall be credited or transferred to the highway capital 62635  
improvement bond service fund created in section 151.06 of the 62636  
Revised Code, until such time as the office of budget and 62637  
management receives certification from the treasurer of state or 62638  
the treasurer of state's designee that sufficient money has been 62639  
credited or transferred to the bond service fund to meet in full 62640  
all payments of debt service and financing costs due during the 62641  
fiscal year from that fund. 62642

**Sec. 5735.26.** The treasurer of state shall place to the 62643  
credit of the tax refund fund created by section 5703.052 of the 62644  
Revised Code, out of receipts from the tax levied by section 62645

5735.25 of the Revised Code, amounts equal to the refunds 62646  
certified by the tax commissioner pursuant to sections 5735.142 62647  
and 5735.25 of the Revised Code, which shall be paid from such 62648  
fund. ~~Receipts from the tax shall be used by the tax commissioner~~ 62649  
~~for the maintenance and administration of the motor fuel laws.~~ The 62650  
treasurer of state shall then transfer the amount required by 62651  
section 5735.051 of the Revised Code to the waterways safety fund 62652  
and the amount required by section 5735.053 of the Revised Code to 62653  
the motor fuel tax administration fund. 62654

The balance of taxes collected under section 5735.25 of the 62655  
Revised Code shall be credited as follows, after the credits to 62656  
the tax refund fund, ~~and after deduction of the cost of~~ 62657  
~~administration of the motor fuel laws,~~ and after the transfer 62658  
transfers to the waterways safety fund and motor fuel tax 62659  
administration fund, and after receipt by the treasurer of state 62660  
of certifications from the commissioners of the sinking fund 62661  
certifying, as required by sections 5528.15 and 5528.35 of the 62662  
Revised Code, there are sufficient moneys to the credit of the 62663  
highway improvement bond retirement fund to meet in full all 62664  
payments of interest, principal, and charges for the retirement of 62665  
bonds and other obligations issued pursuant to Section 2g of 62666  
Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 62667  
of the Revised Code due and payable during the current calendar 62668  
year, and that there are sufficient moneys to the credit of the 62669  
highway obligations bond retirement fund to meet in full all 62670  
payments of interest, principal, and charges for the retirement of 62671  
highway obligations issued pursuant to Section 2i of Article VIII, 62672  
Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised 62673  
Code due and payable during the current calendar year: 62674

(A) Sixty-seven and one-half per cent to the highway 62675  
operating fund for distribution pursuant to division (B)(2) of 62676  
section 5735.27 of the Revised Code; 62677

(B) Seven and one-half per cent to the gasoline excise tax fund for distribution pursuant to division (A)(2) of such section; (B) Seven and one-half per cent to the gasoline excise tax fund for distribution pursuant to division (A)(4) of such section; (D) Seventeen and one-half per cent to the gasoline excise tax fund for distribution pursuant to division (A)(5) of such section.

**Sec. 5735.291.** (A) 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~~

The specified portion of 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, shall be credited to the gasoline excise tax fund. Subject to division (B) of this section, forty-two and eighty-six hundredths per cent of the specified portion shall be distributed among the municipal corporations within the state in accordance with division (A)(2) of section 5735.27 of the Revised Code, thirty-seven and fourteen hundredths per cent of the specified portion shall be distributed among the counties within the state in accordance with division (A)(3) of section 5735.27 of the Revised Code, and twenty per cent of the specified portion shall be combined with twenty per cent of

any amounts transferred from the highway operating fund to the 62709  
gasoline excise tax fund through biennial appropriations acts of 62710  
the general assembly pursuant to the planned phase-in of a new 62711  
source of funding for the state highway patrol, and shall be 62712  
distributed among the townships within the state in accordance 62713  
with division (A)(5)(b) of section 5735.27 of the Revised Code. 62714  
Subject to division (B) of this section, the remainder of the tax 62715  
levied by section 5735.29 of the Revised Code after receipt by the 62716  
treasurer of state of certifications from the commissioners of the 62717  
sinking fund certifying, as required by sections 5528.15 and 62718  
5528.35 of the Revised Code, that there are sufficient moneys to 62719  
the credit of the highway improvement bond retirement fund created 62720  
by section 5528.12 of the Revised Code to meet in full all 62721  
payments of interest, principal, and charges for the retirement of 62722  
bonds and other obligations issued pursuant to Section 2g of 62723  
Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 62724  
of the Revised Code due and payable during the current calendar 62725  
year, and that there are sufficient moneys to the credit of the 62726  
highway obligations bond retirement fund created by section 62727  
5528.32 of the Revised Code to meet in full all payments of 62728  
interest, principal, and charges for the retirement of highway 62729  
obligations issued pursuant to Section 2i of Article VIII, Ohio 62730  
Constitution, and sections 5528.30 and 5528.31 of the Revised Code 62731  
due and payable during the current calendar year, shall be 62732  
credited to the highway operating fund, which is hereby created in 62733  
the state treasury and shall be used solely for the purposes 62734  
enumerated in section 5735.29 of the Revised Code. All investment 62735  
earnings of the fund shall be credited to the fund. 62736

(B)(1) Effective August 15, 2003, prior to the distribution 62737  
from the gasoline excise tax fund to municipal corporations of the 62738  
forty-two and eighty-six hundredths per cent of the specified 62739  
portion as provided in division (A) of this section, the 62740  
department of taxation shall deduct thirty-three and one-third per 62741



cent of the amount specified in division (A)(5)(c) of section 62742  
5735.27 of the Revised Code and use it for distribution to 62743  
townships pursuant to division (A)(5)(b) of that section. 62744

(2) Effective August 15, 2003, prior to the distribution from 62745  
the gasoline excise tax fund to counties of the thirty-seven and 62746  
fourteen hundredths per cent of the specified portion as provided 62747  
in division (A) of this section, the department of taxation shall 62748  
deduct thirty-three and one-third per cent of the amount specified 62749  
in division (A)(5)(c) of section 5735.27 of the Revised Code and 62750  
use it for distribution to townships pursuant to division 62751  
(A)(5)(b) of that section. 62752

(3) Effective August 15, 2003, prior to crediting any revenue 62753  
resulting from the tax levied by section 5735.29 of the Revised 62754  
Code to the highway operating fund, the department of taxation 62755  
shall deduct thirty-three and one-third per cent of the amount 62756  
specified in division (A)(5)(c) of section 5735.27 of the Revised 62757  
Code and use it for distribution to townships pursuant to division 62758  
(A)(5)(b) of that section. 62759

(C) As used in this section, "specified portion" means all of 62760  
the following: 62761

(1) Until August 15, 2003, none of the taxes collected under 62762  
section 5735.29 of the Revised Code; 62763

(2) Effective August 15, 2003, one-eighth of the balance of 62764  
taxes collected under section 5735.29 of the Revised Code, after 62765  
the credits to the tax refund fund and ~~after the transfer~~ 62766  
transfers to the waterways safety fund and the motor fuel tax 62767  
administration fund; 62768

(3) Effective August 15, 2004, one-sixth of the balance of 62769  
taxes described in division (C)(2) of this section; 62770

(4) Effective August 15, 2005, three-sixteenths of the 62771  
balance of taxes described in division (C)(2) of this section. 62772

Sec. 5735.30. (A) For the purpose of providing funds to pay 62773  
the state's share of the cost of constructing and reconstructing 62774  
highways and eliminating railway grade crossings on the major 62775  
thoroughfares of the state highway system and urban extensions 62776  
thereof, to pay that portion of the construction cost of a highway 62777  
project which a county, township, or municipal corporation 62778  
normally would be required to pay, but which the director of 62779  
transportation, pursuant to division (B) of section 5531.08 of the 62780  
Revised Code, determines instead will be paid from moneys in the 62781  
highway operating fund, to pay the interest, principal, and 62782  
charges on bonds and other obligations issued pursuant to Section 62783  
2g of Article VIII, Ohio Constitution, and sections 5528.10 and 62784  
5528.11 of the Revised Code, to pay the interest, principal, and 62785  
charges on highway obligations issued pursuant to Section 2i of 62786  
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 62787  
of the Revised Code, ~~and~~ to provide revenues for the purposes of 62788  
sections 1547.71 to 1547.78 of the Revised Code, and to pay the 62789  
expenses of the department of taxation incident to the 62790  
administration of the motor fuel laws, a motor fuel excise tax is 62791  
hereby imposed on all motor fuel dealers upon their receipt of 62792  
motor fuel within the state, at the rate of one cent on each 62793  
gallon so received, to be reported, computed, paid, collected, 62794  
administered, enforced, refunded, and subject to the same 62795  
exemptions and penalties as provided in this chapter of the 62796  
Revised Code. 62797

The tax imposed by this section shall be in addition to the 62798  
tax imposed by sections 5735.05, 5735.25, and 5735.29 of the 62799  
Revised Code. 62800

(B) The treasurer of state shall place to the credit of the 62801  
tax refund fund created by section 5703.052 of the Revised Code, 62802  
out of receipts from the tax levied by this section, amounts equal 62803

to the refunds certified by the tax commissioner pursuant to this 62804  
section. The refund provided for by ~~the first paragraph~~ division 62805  
(A) of this section shall be paid from such fund. The treasurer 62806  
shall then transfer the amount required by section 5735.051 of the 62807  
Revised Code to the waterways safety fund and the amount required 62808  
by section 5735.053 of the Revised Code to the motor fuel tax 62809  
administration fund. The balance of taxes for which the liability 62810  
has become fixed prior to July 1, 1955, under this section, after 62811  
the credit to the tax refund fund, shall be credited to the 62812  
highway operating fund. 62813

(C)(1) The moneys derived from the tax levied by this 62814  
section, after ~~the credit to the tax refund fund and the waterways~~ 62815  
~~safety fund as provided~~ and transfers required by division (B) of 62816  
this section, shall, during each calendar year, be credited to the 62817  
highway improvement bond retirement fund created by section 62818  
5528.12 of the Revised Code, until the commissioners of the 62819  
sinking fund certify to the treasurer of state, as required by 62820  
section 5528.17 of the Revised Code, that there are sufficient 62821  
moneys to the credit of the highway improvement bond retirement 62822  
fund to meet in full all payments of interest, principal, and 62823  
charges for the retirement of bonds and other obligations issued 62824  
pursuant to Section 2g of Article VIII, Ohio Constitution, and 62825  
sections 5528.10 and 5528.11 of the Revised Code due and payable 62826  
during the current calendar year and during the next succeeding 62827  
calendar year. From the date of the receipt of the certification 62828  
required by section 5528.17 of the Revised Code by the treasurer 62829  
of state until the thirty-first day of December of the calendar 62830  
year in which such certification is made, all moneys received in 62831  
the state treasury from the tax levied by this section, after the 62832  
~~credit to the tax refund fund and the waterways safety fund as~~ 62833  
~~provided~~ and transfers required by division (B) of this section, 62834  
shall be credited to the highway obligations bond retirement fund 62835  
created by section 5528.32 of the Revised Code, until the 62836

commissioners of the sinking fund certify to the treasurer of 62837  
state, as required by section 5528.38 of the Revised Code, that 62838  
there are sufficient moneys to the credit of the highway 62839  
obligations bond retirement fund to meet in full all payments of 62840  
interest, principal, and charges for the retirement of obligations 62841  
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 62842  
and sections 5528.30 and 5528.31 of the Revised Code due and 62843  
payable during the current calendar year and during the next 62844  
succeeding calendar year. ~~From~~ 62845

(2) From the date of the receipt of the certification 62846  
required by section 5528.38 of the Revised Code by the treasurer 62847  
of state until the thirty-first day of December of the calendar 62848  
year in which such certification is made, all moneys received in 62849  
the state treasury from the tax levied by this section, after the 62850  
~~credit to the tax refund fund and the waterways safety fund as~~ 62851  
~~provided and transfers required by division (B) of~~ this section, 62852  
shall be credited to the highway operating fund, except as 62853  
provided in ~~the next succeeding paragraph~~ division (C)(3) of this 62854  
section. 62855

(3) From the date of the receipt by the treasurer of state of 62856  
certifications from the commissioners of the sinking fund, as 62857  
required by sections 5528.18 and 5528.39 of the Revised Code, 62858  
certifying that the moneys to the credit of the highway 62859  
improvement bond retirement fund are sufficient to meet in full 62860  
all payments of interest, principal, and charges for the 62861  
retirement of all bonds and other obligations which may be issued 62862  
pursuant to Section 2g of Article VIII, Ohio Constitution, and 62863  
sections 5528.10 and 5528.11 of the Revised Code, and to the 62864  
credit of the highway obligations bond retirement fund are 62865  
sufficient to meet in full all payments of interest, principal, 62866  
and charges for the retirement of all obligations issued pursuant 62867  
to Section 2i of Article VIII, Ohio Constitution, and sections 62868

5528.30 and 5528.31 of the Revised Code, the moneys derived from 62869  
the tax levied by this section, after ~~the credit to the tax refund~~ 62870  
~~fund and the waterways safety fund as provided and transfers~~ 62871  
required by division (B) of this section, shall be credited to the 62872  
highway operating fund. 62873

**Sec. 5735.99.** (A) Whoever violates division (F) of section 62874  
5735.02, division (D) of section 5735.021, division (B) of section 62875  
5735.063, division (B) of section 5735.064, or division (A)(2) of 62876  
section 5735.20 of the Revised Code is guilty of a misdemeanor of 62877  
the first degree. 62878

(B) Whoever violates division (E) of section 5735.06 of the 62879  
Revised Code is guilty of a felony of the fourth degree. 62880

(C) Whoever violates section 5735.025 or division (A)(1) of 62881  
section 5735.20 of the Revised Code is guilty of a misdemeanor of 62882  
the first degree, if the tax owed or the fraudulent refund 62883  
received is not greater than five hundred dollars. If the tax owed 62884  
or the fraudulent refund received is greater than five hundred 62885  
dollars but not greater than ten thousand dollars, the offender is 62886  
guilty of a felony of the fourth degree; for each subsequent 62887  
offense when the tax owed or the fraudulent refund received is 62888  
greater than five hundred dollars but not greater than ten 62889  
thousand dollars, the offender is guilty of a felony of the third 62890  
degree. If the tax owed or the fraudulent refund received is 62891  
greater than ten thousand dollars, the offender is guilty of a 62892  
felony of the second degree. 62893

(D) Whoever violates a provision of this chapter for which a 62894  
penalty is not otherwise prescribed under this section is guilty 62895  
of a misdemeanor of the fourth degree. 62896

(E) Whoever violates division (D)(5) of section 5735.19 of 62897  
the Revised Code is guilty of a misdemeanor of the first degree. 62898

Sec. 5739.01. As used in this chapter:	62899
(A) "Person" includes individuals, receivers, assignees,	62900
trustees in bankruptcy, estates, firms, partnerships,	62901
associations, joint-stock companies, joint ventures, clubs,	62902
societies, corporations, the state and its political subdivisions,	62903
and combinations of individuals of any form.	62904
(B) "Sale" and "selling" include all of the following	62905
transactions for a consideration in any manner, whether absolutely	62906
or conditionally, whether for a price or rental, in money or by	62907
exchange, and by any means whatsoever:	62908
(1) All transactions by which title or possession, or both,	62909
of tangible personal property, is or is to be transferred, or a	62910
license to use or consume tangible personal property is or is to	62911
be granted;	62912
(2) All transactions by which lodging by a hotel is or is to	62913
be furnished to transient guests;	62914
(3) All transactions by which:	62915
(a) An item of tangible personal property is or is to be	62916
repaired, except property, the purchase of which would not be	62917
subject to the tax imposed by section 5739.02 of the Revised Code;	62918
(b) An item of tangible personal property is or is to be	62919
installed, except property, the purchase of which would not be	62920
subject to the tax imposed by section 5739.02 of the Revised Code	62921
or property that is or is to be incorporated into and will become	62922
a part of a production, transmission, transportation, or	62923
distribution system for the delivery of a public utility service;	62924
(c) The service of washing, cleaning, waxing, polishing, or	62925
painting a motor vehicle is or is to be furnished;	62926
(d) <del>Industrial laundry</del> <u>Laundry and dry</u> cleaning services are	62927

or are to be provided; 62928

(e) Automatic data processing, computer services, or 62929  
electronic information services are or are to be provided for use 62930  
in business when the true object of the transaction is the receipt 62931  
by the consumer of automatic data processing, computer services, 62932  
or electronic information services rather than the receipt of 62933  
personal or professional services to which automatic data 62934  
processing, computer services, or electronic information services 62935  
are incidental or supplemental. Notwithstanding any other 62936  
provision of this chapter, such transactions that occur between 62937  
members of an affiliated group are not sales. An affiliated group 62938  
means two or more persons related in such a way that one person 62939  
owns or controls the business operation of another member of the 62940  
group. In the case of corporations with stock, one corporation 62941  
owns or controls another if it owns more than fifty per cent of 62942  
the other corporation's common stock with voting rights. 62943

(f) Telecommunications service, other than mobile 62944  
telecommunications service after July 31, 2002, is or is to be 62945  
provided ~~that originates or terminates in this state and is~~ 62946  
~~charged in the records of the telecommunications service vendor to~~ 62947  
~~the consumer's telephone number or account in this state, or that~~ 62948  
~~both originates and terminates in this state;~~ but does not 62949  
include transactions by which ~~telecommunications service is paid~~ 62950  
~~for by using a prepaid authorization number or prepaid telephone~~ 62951  
~~ealling card, or by which~~ local telecommunications service is 62952  
obtained from a coin-operated telephone and paid for by using 62953  
coin; 62954

(g) Landscaping and lawn care service is or is to be 62955  
provided; 62956

(h) Private investigation and security service is or is to be 62957  
provided; 62958

(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;	62959 62960
(j) Building maintenance and janitorial service is or is to be provided;	62961 62962
(k) Employment service is or is to be provided;	62963
(l) Employment placement service is or is to be provided;	62964
(m) Exterminating service is or is to be provided;	62965
(n) Physical fitness facility service is or is to be provided;	62966 62967
(o) Recreation and sports club service is or is to be provided.	62968 62969
(p) After July 31, 2002, mobile telecommunications service is or is to be provided <del>in this state</del> when that service is situated to this state pursuant to the "Mobile Telecommunications Sourcing Act," P. Pub. L. No. 106-252, 114 Stat. 626 to 632 (2000), 4 U.S.C.A. 116 to 126, as amended.	62970 62971 62972 62973 62974
<u>(q) Satellite television service is or is to be provided;</u>	62975
<u>(r) Personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by individuals licensed under Title XLVII of the Revised Code who are authorized to perform therapeutic massage pursuant to their scope of practice, or the cutting, coloring, or styling of an individual's hair.</u>	62976 62977 62978 62979 62980 62981 62982 62983 62984
<u>(s) The transportation of persons by motor vehicle or aircraft is or is to be provided, when the point of origin and the point of termination are both within this state, except for transportation provided by a transit bus, as defined in section</u>	62985 62986 62987 62988



5735.01 of the Revised Code, and transportation provided by a 62989  
citizen of the United States holding a certificate of public 62990  
convenience and necessity issued under 49 U.S.C. 41102; 62991

(t) Motor vehicle towing service is or is to be provided. As 62992  
used in this division, "motor vehicle towing service" means the 62993  
towing or conveyance of a wrecked, disabled, or illegally parked 62994  
motor vehicle. 62995

(u) Snow removal service is or is to be provided. As used in 62996  
this division, "snow removal" means the removal of snow by any 62997  
mechanized means. 62998

(4) All transactions by which printed, imprinted, 62999  
overprinted, lithographic, multilithic, blueprinted, photostatic, 63000  
or other productions or reproductions of written or graphic matter 63001  
are or are to be furnished or transferred; 63002

(5) The production or fabrication of tangible personal 63003  
property for a consideration for consumers who furnish either 63004  
directly or indirectly the materials used in the production of 63005  
fabrication work; and include the furnishing, preparing, or 63006  
serving for a consideration of any tangible personal property 63007  
consumed on the premises of the person furnishing, preparing, or 63008  
serving such tangible personal property. Except as provided in 63009  
section 5739.03 of the Revised Code, a construction contract 63010  
pursuant to which tangible personal property is or is to be 63011  
incorporated into a structure or improvement on and becoming a 63012  
part of real property is not a sale of such tangible personal 63013  
property. The construction contractor is the consumer of such 63014  
tangible personal property, provided that the sale and 63015  
installation of carpeting, the sale and installation of 63016  
agricultural land tile, the sale and erection or installation of 63017  
portable grain bins, or the provision of landscaping and lawn care 63018  
service and the transfer of property as part of such service is 63019  
never a construction contract. The transfer of copyrighted motion 63020

picture films for exhibition purposes is not a sale, except such 63021  
films as are used solely for advertising purposes. ~~Other than as~~ 63022  
~~provided in this section, "sale" and "selling" do not include~~ 63023  
~~transfers of interest in leased property where the original lessee~~ 63024  
~~and the terms of the original lease agreement remain unchanged, or~~ 63025  
~~professional, insurance, or personal service transactions that~~ 63026  
~~involve the transfer of tangible personal property as an~~ 63027  
~~inconsequential element, for which no separate charges are made.~~ 63028

As used in division (B)(5) of this section: 63029

(a) "Agricultural land tile" means fired clay or concrete 63030  
tile, or flexible or rigid perforated plastic pipe or tubing, 63031  
incorporated or to be incorporated into a subsurface drainage 63032  
system appurtenant to land used or to be used directly in 63033  
production by farming, agriculture, horticulture, or floriculture. 63034  
The term does not include such materials when they are or are to 63035  
be incorporated into a drainage system appurtenant to a building 63036  
or structure even if the building or structure is used or to be 63037  
used in such production. 63038

(b) "Portable grain bin" means a structure that is used or to 63039  
be used by a person engaged in farming or agriculture to shelter 63040  
the person's grain and that is designed to be disassembled without 63041  
significant damage to its component parts. 63042

(6) All transactions in which all of the shares of stock of a 63043  
closely held corporation are transferred, if the corporation is 63044  
not engaging in business and its entire assets consist of boats, 63045  
planes, motor vehicles, or other tangible personal property 63046  
operated primarily for the use and enjoyment of the shareholders; 63047

(7) All transactions in which a warranty, maintenance or 63048  
service contract, or similar agreement by which the vendor of the 63049  
warranty, contract, or agreement agrees to repair or maintain the 63050  
tangible personal property of the consumer is or is to be 63051

provided; 63052

(8) ~~All transactions by which a prepaid authorization number~~ 63053  
~~or a prepaid telephone calling card is or is to be transferred~~ All 63054  
transactions by which tangible personal property is or is to be 63055  
stored, except such property that the consumer of the storage 63056  
holds for sale in the regular course of business. 63057

Except as provided in this section, "sale" and "selling" do 63058  
not include transfers of interest in leased property where the 63059  
original lessee and the terms of the original lease agreement 63060  
remain unchanged, or professional, insurance, or personal service 63061  
transactions that involve the transfer of tangible personal 63062  
property as an inconsequential element, for which no separate 63063  
charges are made. 63064

(C) "Vendor" means the person providing the service or by 63065  
whom the transfer effected or license given by a sale is or is to 63066  
be made or given and, for sales described in division (B)(3)(i) of 63067  
this section, the telecommunications service vendor that provides 63068  
the nine hundred telephone service; if two or more persons are 63069  
engaged in business at the same place of business under a single 63070  
trade name in which all collections on account of sales by each 63071  
are made, such persons shall constitute a single vendor. 63072

Physicians, dentists, hospitals, and veterinarians who are 63073  
engaged in selling tangible personal property as received from 63074  
others, such as eyeglasses, mouthwashes, dentifrices, or similar 63075  
articles, are vendors. Veterinarians who are engaged in 63076  
transferring to others for a consideration drugs, the dispensing 63077  
of which does not require an order of a licensed veterinarian or 63078  
physician under federal law, are vendors. 63079

(D)(1) "Consumer" means the person for whom the service is 63080  
provided, to whom the transfer effected or license given by a sale 63081  
is or is to be made or given, to whom the service described in 63082

division (B)(3)(f) or (i) of this section is charged, or to whom 63083  
the admission is granted. 63084

(2) Physicians, dentists, hospitals, and blood banks operated 63085  
by nonprofit institutions and persons licensed to practice 63086  
veterinary medicine, surgery, and dentistry are consumers of all 63087  
tangible personal property and services purchased by them in 63088  
connection with the practice of medicine, dentistry, the rendition 63089  
of hospital or blood bank service, or the practice of veterinary 63090  
medicine, surgery, and dentistry. In addition to being consumers 63091  
of drugs administered by them or by their assistants according to 63092  
their direction, veterinarians also are consumers of drugs that 63093  
under federal law may be dispensed only by or upon the order of a 63094  
licensed veterinarian or physician, when transferred by them to 63095  
others for a consideration to provide treatment to animals as 63096  
directed by the veterinarian. 63097

(3) A person who performs a facility management, or similar 63098  
service contract for a contractee is a consumer of all tangible 63099  
personal property and services purchased for use in connection 63100  
with the performance of such contract, regardless of whether title 63101  
to any such property vests in the contractee. The purchase of such 63102  
property and services is not subject to the exception for resale 63103  
under division (E)(1) of this section. 63104

(4)(a) In the case of a person who purchases printed matter 63105  
for the purpose of distributing it or having it distributed to the 63106  
public or to a designated segment of the public, free of charge, 63107  
that person is the consumer of that printed matter, and the 63108  
purchase of that printed matter for that purpose is a sale. 63109

(b) In the case of a person who produces, rather than 63110  
purchases, printed matter for the purpose of distributing it or 63111  
having it distributed to the public or to a designated segment of 63112  
the public, free of charge, that person is the consumer of all 63113  
tangible personal property and services purchased for use or 63114

consumption in the production of that printed matter. That person 63115  
is not entitled to claim ~~exception~~ exemption under division 63116  
~~(E)(8)(B)(43)(f)~~ of ~~this~~ section 5739.02 of the Revised Code for 63117  
any material incorporated into the printed matter or any 63118  
equipment, supplies, or services primarily used to produce the 63119  
printed matter. 63120

(c) The distribution of printed matter to the public or to a 63121  
designated segment of the public, free of charge, is not a sale to 63122  
the members of the public to whom the printed matter is 63123  
distributed or to any persons who purchase space in the printed 63124  
matter for advertising or other purposes. 63125

(5) A person who makes sales of any of the services listed in 63126  
division (B)(3) of this section is the consumer of any tangible 63127  
personal property used in performing the service. The purchase of 63128  
that property is not subject to the resale exception under 63129  
division (E)(1) of this section. 63130

(E) "Retail sale" and "sales at retail" include all sales, 63131  
except those in which the purpose of the consumer is+ 63132

~~(1) To~~ to resell the thing transferred or benefit of the 63133  
service provided, by a person engaging in business, in the form in 63134  
which the same is, or is to be, received by the person+ 63135

~~(2) To incorporate the thing transferred as a material or a 63136  
part, into tangible personal property to be produced for sale by 63137  
manufacturing, assembling, processing, or refining, or to use or 63138  
consume the thing transferred directly in producing a product for 63139  
sale by mining, including without limitation the extraction from 63140  
the earth of all substances that are classed geologically as 63141  
minerals, production of crude oil and natural gas, farming, 63142  
agriculture, horticulture, or floriculture, and persons engaged in 63143  
rendering farming, agricultural, horticultural, or floricultural 63144  
services, and services in the exploration for, and production of, 63145~~

~~crude oil and natural gas, for others are deemed engaged directly 63146  
in farming, agriculture, horticulture, and floriculture, or 63147  
exploration for, and production of, crude oil and natural gas; 63148  
directly in the rendition of a public utility service, except that 63149  
the sales tax levied by section 5739.02 of the Revised Code shall 63150  
be collected upon all meals, drinks, and food for human 63151  
consumption sold upon Pullman and railroad coaches. This paragraph 63152  
does not exempt or except from "retail sale" or "sales at retail" 63153  
the sale of tangible personal property that is to be incorporated 63154  
into a structure or improvement to real property. 63155~~

~~(3) To hold the thing transferred as security for the 63156  
performance of an obligation of the vendor; 63157~~

~~(4) To use or consume the thing transferred in the process of 63158  
reclamation as required by Chapters 1513. and 1514. of the Revised 63159  
Code; 63160~~

~~(5) To resell, hold, use, or consume the thing transferred as 63161  
evidence of a contract of insurance; 63162~~

~~(6) To use or consume the thing directly in commercial 63163  
fishing; 63164~~

~~(7) To incorporate the thing transferred as a material or a 63165  
part into, or to use or consume the thing transferred directly in 63166  
the production of, magazines distributed as controlled circulation 63167  
publications; 63168~~

~~(8) To use or consume the thing transferred in the production 63169  
and preparation in suitable condition for market and sale of 63170  
printed, imprinted, overprinted, lithographic, multilithic, 63171  
blueprinted, photostatic, or other productions or reproductions of 63172  
written or graphic matter; 63173~~

~~(9) To use the thing transferred, as described in section 63174  
5739.011 of the Revised Code, primarily in a manufacturing 63175  
operation to produce tangible personal property for sale; 63176~~

~~(10) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as defined in division (B)(7) of this section, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would be exempt on its purchase from the tax imposed by section 5739.02 of the Revised Code;~~ 63177  
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~~(11) To use the thing transferred as qualified research and development equipment;~~ 63183  
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~~(12) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. Division (E)(12) of this section does not apply to motor vehicles registered for operation on the public highways. As used in division (E)(12) of this section, "affiliated group" has the same meaning as in division (B)(3)(c) of this section and "direct marketing" has the same meaning as in division (B)(36) of section 5739.02 of the Revised Code.~~ 63185  
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~~(13) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of this section;~~ 63198  
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~~(14) To use or consume the thing transferred in the production of a newspaper for distribution to the public;~~ 63204  
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~~(15) To use tangible personal property to perform a service listed in division (B)(3) of this section, if the property is or~~ 63206  
63207

~~is to be permanently transferred to the consumer of the service as  
an integral part of the performance of the service.~~ 63208  
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~~As used in division (E) of this section, "thing" includes all  
transactions included in divisions (B)(3)(a), (b), and (c) of this  
section.~~ 63210  
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~~Sales conducted through a coin-operated device that activates  
vacuum equipment or equipment that dispenses water, whether or not  
in combination with soap or other cleaning agents or wax, to the  
consumer for the consumer's use on the premises in washing,  
cleaning, or waxing a motor vehicle, provided no other personal  
property or personal service is provided as part of the  
transaction, are not retail sales or sales at retail.~~ 63213  
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(F) "Business" includes any activity engaged in by any person 63220  
with the object of gain, benefit, or advantage, either direct or 63221  
indirect. "Business" does not include the activity of a person in 63222  
managing and investing the person's own funds. 63223

(G) "Engaging in business" means commencing, conducting, or 63224  
continuing in business, and liquidating a business when the 63225  
liquidator thereof holds itself out to the public as conducting 63226  
such business. Making a casual sale is not engaging in business. 63227

(H)(1)(a) "Price," except as provided in divisions (H)(2) and 63228  
(3) of this section, means ~~the aggregate value in money of~~ 63229  
~~anything paid or delivered, or promised to be paid or delivered,~~ 63230  
~~in the complete performance of a retail sale, without any~~ 63231  
~~deduction on account of the cost of the property sold, cost of~~ 63232  
~~materials used, labor or service cost, interest, discount paid or~~ 63233  
~~allowed after the sale is consummated, or any other expense. If~~ 63234  
~~the retail sale consists of the rental or lease of tangible~~ 63235  
~~personal property, "price" means the aggregate value in money of~~ 63236  
~~anything paid or delivered, or promised to be paid or delivered,~~ 63237  
~~in the complete performance of the rental or lease, without any~~ 63238



~~deduction for tax, interest, labor or service charge, damage liability waiver, termination or damage charge, discount paid or allowed after the lease is consummated, or any other expense. Except as provided in division (H)(4) of this section, the sales tax shall be calculated and collected by the lessor on each payment made by the lessee. "Price" does not include the consideration received as a deposit refundable to the consumer upon return of a beverage container, the consideration received as a deposit on a carton or case that is used for such returnable containers, or the consideration received as a refundable security deposit for the use of tangible personal property to the extent that it actually is refunded, if the consideration for such refundable deposit is separately stated from the consideration received or to be received for the tangible personal property transferred in the retail sale. Such separation must appear in the sales agreement or on the initial invoice or initial billing rendered by the vendor to the consumer. "Price" also does not include delivery charges that are separately stated on the initial invoice or initial billing rendered by the vendor. Price is the amount received inclusive of the tax, provided the vendor establishes to the satisfaction of the tax commissioner that the tax was added to the price. When the price includes both a charge for tangible personal property and a charge for providing a service and the sale of the property and the charge for the service are separately taxable, or have a separately determinable tax status, the price shall be separately stated for each such charge so the tax can be correctly computed and charged.~~

~~The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the~~

~~discount authorized in section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of such tax.~~

~~As used in division (H)(1) of this section, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:~~

~~(i) The vendor's cost of the property sold;~~

~~(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, and any other expense of the vendor;~~

~~(iii) Charges by the vendor for any services necessary to complete the sale;~~

~~(iv) Delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.~~

~~(v) Installation charges;~~

~~(vi) The value of exempt tangible personal property given to the consumer where taxable and exempt tangible personal property have been bundled together and sold by the vendor as a single product or piece of merchandise.~~

<u>(b) "Price" does not include any of the following:</u>	63302
<u>(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;</u>	63303 63304 63305
<u>(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;</u>	63306 63307 63308 63309
<u>(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer.</u>	63310 63311 63312
(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade.	63313 63314 63315 63316 63317 63318 63319
(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. <u>As used in this division, "watercraft" includes an outdrive unit attached to the watercraft.</u>	63320 63321 63322 63323 63324 63325 63326 63327 63328 63329
<del>(4) In the case of the lease of any motor vehicle designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or the lease of any</del>	63330 63331 63332

~~tangible personal property, other than motor vehicles designed by 63333  
the manufacturer to carry a load of more than one ton, to be used 63334  
by the lessee primarily for business purposes, the sales tax shall 63335  
be collected by the vendor at the time the lease is consummated 63336  
and shall be calculated by the vendor on the basis of the total 63337  
amount to be paid by the lessee under the lease agreement. If the 63338  
total amount of the consideration for the lease includes amounts 63339  
that are not calculated at the time the lease is executed, the tax 63340  
shall be calculated and collected by the vendor at the time such 63341  
amounts are billed to the lessee. In the case of an open end 63342  
lease, the sales tax shall be calculated by the vendor on the 63343  
basis of the total amount to be paid during the initial fixed term 63344  
of the lease, and then for each subsequent renewal period as it 63345  
comes due. 63346~~

~~As used in divisions (H)(3) and (4) of this section, "motor 63347  
vehicle" has the same meaning as in section 4501.01 of the Revised 63348  
Code, and "watercraft" includes an outdrive unit attached to the 63349  
watercraft. 63350~~

In the case of a transaction in which telecommunications 63351  
service, mobile telecommunications service, or cable television 63352  
service is sold in a bundled transaction with other distinct 63353  
services for a single price that is not itemized, the entire price 63354  
is subject to the taxes levied under sections 5739.02, 5739.021, 63355  
5739.023, and 5739.026 of the Revised Code, unless the vendor can 63356  
reasonably identify the nontaxable portion from its books and 63357  
records kept in the regular course of business. Upon the request 63358  
of the consumer, the vendor shall disclose to the consumer the 63359  
selling price for the taxable services included in the selling 63360  
price for the taxable and nontaxable services billed on an 63361  
aggregated basis. The burden of proving any nontaxable charges is 63362  
on the vendor. 63363

(I) "Receipts" means the total amount of the prices of the 63364

sales of vendors, provided that cash discounts allowed and taken 63365  
on sales at the time they are consummated are not included, minus 63366  
any amount deducted as a bad debt pursuant to section 5739.121 of 63367  
the Revised Code. "Receipts" does not include the sale price of 63368  
property returned or services rejected by consumers when the full 63369  
sale price and tax are refunded either in cash or by credit. 63370

(J) "Place of business" means any location at which a person 63371  
engages in business. 63372

(K) "Premises" includes any real property or portion thereof 63373  
upon which any person engages in selling tangible personal 63374  
property at retail or making retail sales and also includes any 63375  
real property or portion thereof designated for, or devoted to, 63376  
use in conjunction with the business engaged in by such person. 63377

(L) "Casual sale" means a sale of an item of tangible 63378  
personal property that was obtained by the person making the sale, 63379  
through purchase or otherwise, for the person's own use and was 63380  
previously subject to any state's taxing jurisdiction on its sale 63381  
or use, and includes such items acquired for the seller's use that 63382  
are sold by an auctioneer employed directly by the person for such 63383  
purpose, provided the location of such sales is not the 63384  
auctioneer's permanent place of business. As used in this 63385  
division, "permanent place of business" includes any location 63386  
where such auctioneer has conducted more than two auctions during 63387  
the year. 63388

(M) "Hotel" means every establishment kept, used, maintained, 63389  
advertised, or held out to the public to be a place where sleeping 63390  
accommodations are offered to guests, in which five or more rooms 63391  
are used for the accommodation of such guests, whether the rooms 63392  
are in one or several structures. 63393

(N) "Transient guests" means persons occupying a room or 63394  
rooms for sleeping accommodations for less than thirty consecutive 63395

days. 63396

(O) "Making retail sales" means the effecting of transactions 63397  
wherein one party is obligated to pay the price and the other 63398  
party is obligated to provide a service or to transfer title to or 63399  
possession of the item sold. "Making retail sales" does not 63400  
include the preliminary acts of promoting or soliciting the retail 63401  
sales, other than the distribution of printed matter which 63402  
displays or describes and prices the item offered for sale, nor 63403  
does it include delivery of a predetermined quantity of tangible 63404  
personal property or transportation of property or personnel to or 63405  
from a place where a service is performed, regardless of whether 63406  
the vendor is a delivery vendor. 63407

(P) "Used directly in the rendition of a public utility 63408  
service" means that property ~~which~~ that is to be incorporated into 63409  
and will become a part of the consumer's production, transmission, 63410  
transportation, or distribution system and that retains its 63411  
classification as tangible personal property after such 63412  
incorporation; fuel or power used in the production, transmission, 63413  
transportation, or distribution system; and tangible personal 63414  
property used in the repair and maintenance of the production, 63415  
transmission, transportation, or distribution system, including 63416  
only such motor vehicles as are specially designed and equipped 63417  
for such use. Tangible personal property and services used 63418  
primarily in providing highway transportation for hire are not 63419  
used directly in ~~providing the rendition of~~ a public utility 63420  
service ~~as defined in this division~~. 63421

(Q) "Refining" means removing or separating a desirable 63422  
product from raw or contaminated materials by distillation or 63423  
physical, mechanical, or chemical processes. 63424

(R) "Assembly" and "assembling" mean attaching or fitting 63425  
together parts to form a product, but do not include packaging a 63426  
product. 63427

(S) "Manufacturing operation" means a process in which 63428  
materials are changed, converted, or transformed into a different 63429  
state or form from which they previously existed and includes 63430  
refining materials, assembling parts, and preparing raw materials 63431  
and parts by mixing, measuring, blending, or otherwise committing 63432  
such materials or parts to the manufacturing process. 63433  
"Manufacturing operation" does not include packaging. 63434

(T) "Fiscal officer" means, with respect to a regional 63435  
transit authority, the secretary-treasurer thereof, and with 63436  
respect to a county that is a transit authority, the fiscal 63437  
officer of the county transit board if one is appointed pursuant 63438  
to section 306.03 of the Revised Code or the county auditor if the 63439  
board of county commissioners operates the county transit system. 63440

(U) "Transit authority" means a regional transit authority 63441  
created pursuant to section 306.31 of the Revised Code or a county 63442  
in which a county transit system is created pursuant to section 63443  
306.01 of the Revised Code. For the purposes of this chapter, a 63444  
transit authority must extend to at least the entire area of a 63445  
single county. A transit authority that includes territory in more 63446  
than one county must include all the area of the most populous 63447  
county that is a part of such transit authority. County population 63448  
shall be measured by the most recent census taken by the United 63449  
States census bureau. 63450

(V) "Legislative authority" means, with respect to a regional 63451  
transit authority, the board of trustees thereof, and with respect 63452  
to a county that is a transit authority, the board of county 63453  
commissioners. 63454

(W) "Territory of the transit authority" means all of the 63455  
area included within the territorial boundaries of a transit 63456  
authority as they from time to time exist. Such territorial 63457  
boundaries must at all times include all the area of a single 63458

county or all the area of the most populous county that is a part 63459  
of such transit authority. County population shall be measured by 63460  
the most recent census taken by the United States census bureau. 63461

(X) "Providing a service" means providing or furnishing 63462  
anything described in division (B)(3) of this section for 63463  
consideration. 63464

(Y)(1)(a) "Automatic data processing" means processing of 63465  
others' data, including keypunching or similar data entry services 63466  
together with verification thereof, or providing access to 63467  
computer equipment for the purpose of processing data. 63468

(b) "Computer services" means providing services consisting 63469  
of specifying computer hardware configurations and evaluating 63470  
technical processing characteristics, computer programming, and 63471  
training of computer programmers and operators, provided in 63472  
conjunction with and to support the sale, lease, or operation of 63473  
taxable computer equipment or systems. 63474

(c) "Electronic information services" means providing access 63475  
to computer equipment by means of telecommunications equipment for 63476  
the purpose of either of the following: 63477

(i) Examining or acquiring data stored in or accessible to 63478  
the computer equipment; 63479

(ii) Placing data into the computer equipment to be retrieved 63480  
by designated recipients with access to the computer equipment. 63481

(d) "Automatic data processing, computer services, or 63482  
electronic information services" shall not include personal or 63483  
professional services. 63484

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 63485  
section, "personal and professional services" means all services 63486  
other than automatic data processing, computer services, or 63487  
electronic information services, including but not limited to: 63488



(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, alters, analyzes, interprets, or adjusts such material;	63489 63490 63491 63492 63493
(b) Analyzing business policies and procedures;	63494
(c) Identifying management information needs;	63495
(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;	63496 63497 63498
(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;	63499 63500 63501 63502
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	63503 63504 63505
(g) Testing of business procedures;	63506
(h) Training personnel in business procedure applications;	63507
(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;	63508 63509 63510 63511 63512 63513
(j) Providing debt collection services by any oral, written, graphic, or electronic means.	63514 63515
The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services.	63516 63517

(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:

(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:	63549
(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 for the receipt of that service;	63550 63551 63552 63553
(2) Sales of private communications service to the person contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges;	63554 63555 63556 63557
(3) Sales of telecommunications service <u>billed to persons before January 1, 2004</u> , by <u>telephone</u> companies subject to the excise tax imposed by Chapter 5727. of the Revised Code;	63558 63559 63560
(4) Sales of telecommunications service to a provider of telecommunications service <u>or of mobile telecommunications service</u> , including access services, for use in providing telecommunications service <u>or mobile telecommunications service</u> ;	63561 63562 63563 63564
(5) Value-added nonvoice services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted;	63565 63566 63567
(6) Transmission of interactive video programming by a cable television system as defined in section 505.90 of the Revised Code;	63568 63569 63570
(7) After July 31, 2002, mobile telecommunications service.	63571
(BB) " <del>Industrial laundry</del> <u>Laundry and dry cleaning services</u> " means removing soil or dirt from <del>or supplying</del> towels, linens, <del>or</del> articles of clothing, <u>or other fabric items</u> that belong to others and <del>are used in a trade or business</del> <u>supplying towels, linens, articles of clothing, or other fabric items.</u> " <u>Laundry and dry cleaning services</u> " <u>does not include the provision of self-service facilities for use by consumers to remove soil or dirt from</u>	63572 63573 63574 63575 63576 63577 63578

towels, linens, articles of clothing, or other fabric items. 63579

(CC) "Magazines distributed as controlled circulation 63580  
publications" means magazines containing at least twenty-four 63581  
pages, at least twenty-five per cent editorial content, issued at 63582  
regular intervals four or more times a year, and circulated 63583  
without charge to the recipient, provided that such magazines are 63584  
not owned or controlled by individuals or business concerns which 63585  
conduct such publications as an auxiliary to, and essentially for 63586  
the advancement of the main business or calling of, those who own 63587  
or control them. 63588

(DD) "Landscaping and lawn care service" means the services 63589  
of planting, seeding, sodding, removing, cutting, trimming, 63590  
pruning, mulching, aerating, applying chemicals, watering, 63591  
fertilizing, and providing similar services to establish, promote, 63592  
or control the growth of trees, shrubs, flowers, grass, ground 63593  
cover, and other flora, or otherwise maintaining a lawn or 63594  
landscape grown or maintained by the owner for ornamentation or 63595  
other nonagricultural purpose. However, "landscaping and lawn care 63596  
service" does not include the providing of such services by a 63597  
person who has less than five thousand dollars in sales of such 63598  
services during the calendar year. 63599

(EE) "Private investigation and security service" means the 63600  
performance of any activity for which the provider of such service 63601  
is required to be licensed pursuant to Chapter 4749. of the 63602  
Revised Code, or would be required to be so licensed in performing 63603  
such services in this state, and also includes the services of 63604  
conducting polygraph examinations and of monitoring or overseeing 63605  
the activities on or in, or the condition of, the consumer's home, 63606  
business, or other facility by means of electronic or similar 63607  
monitoring devices. "Private investigation and security service" 63608  
does not include special duty services provided by off-duty police 63609  
officers, deputy sheriffs, and other peace officers regularly 63610

employed by the state or a political subdivision. 63611

(FF) "Information services" means providing conversation, 63612  
giving consultation or advice, playing or making a voice or other 63613  
recording, making or keeping a record of the number of callers, 63614  
and any other service provided to a consumer by means of a nine 63615  
hundred telephone call, except when the nine hundred telephone 63616  
call is the means by which the consumer makes a contribution to a 63617  
recognized charity. 63618

(GG) "Research and development" means designing, creating, or 63619  
formulating new or enhanced products, equipment, or manufacturing 63620  
processes, and also means conducting scientific or technological 63621  
inquiry and experimentation in the physical sciences with the goal 63622  
of increasing scientific knowledge which may reveal the bases for 63623  
new or enhanced products, equipment, or manufacturing processes. 63624

(HH) "Qualified research and development equipment" means 63625  
capitalized tangible personal property, and leased personal 63626  
property that would be capitalized if purchased, used by a person 63627  
primarily to perform research and development. Tangible personal 63628  
property primarily used in testing, as defined in division (A)(4) 63629  
of section 5739.011 of the Revised Code, or used for recording or 63630  
storing test results, is not qualified research and development 63631  
equipment unless such property is primarily used by the consumer 63632  
in testing the product, equipment, or manufacturing process being 63633  
created, designed, or formulated by the consumer in the research 63634  
and development activity or in recording or storing such test 63635  
results. 63636

(II) "Building maintenance and janitorial service" means 63637  
cleaning the interior or exterior of a building and any tangible 63638  
personal property located therein or thereon, including any 63639  
services incidental to such cleaning for which no separate charge 63640  
is made. However, "building maintenance and janitorial service" 63641  
does not include the providing of such service by a person who has 63642

less than five thousand dollars in sales of such service during 63643  
the calendar year. 63644

(JJ) "Employment service" means providing or supplying 63645  
personnel, on a temporary or long-term basis, to perform work or 63646  
labor under the supervision or control of another, when the 63647  
personnel so supplied receive their wages, salary, or other 63648  
compensation from the provider of the service. "Employment 63649  
service" does not include: 63650

(1) Acting as a contractor or subcontractor, where the 63651  
personnel performing the work are not under the direct control of 63652  
the purchaser. 63653

(2) Medical and health care services. 63654

(3) Supplying personnel to a purchaser pursuant to a contract 63655  
of at least one year between the service provider and the 63656  
purchaser that specifies that each employee covered under the 63657  
contract is assigned to the purchaser on a permanent basis. 63658

(4) Transactions between members of an affiliated group, as 63659  
defined in division (B)(3)(e) of this section. 63660

(KK) "Employment placement service" means locating or finding 63661  
employment for a person or finding or locating an employee to fill 63662  
an available position. 63663

(LL) "Exterminating service" means eradicating or attempting 63664  
to eradicate vermin infestations from a building or structure, or 63665  
the area surrounding a building or structure, and includes 63666  
activities to inspect, detect, or prevent vermin infestation of a 63667  
building or structure. 63668

(MM) "Physical fitness facility service" means all 63669  
transactions by which a membership is granted, maintained, or 63670  
renewed, including initiation fees, membership dues, renewal fees, 63671  
monthly minimum fees, and other similar fees and dues, by a 63672

physical fitness facility such as an athletic club, health spa, or 63673  
gymnasium, which entitles the member to use the facility for 63674  
physical exercise. 63675

(NN) "Recreation and sports club service" means all 63676  
transactions by which a membership is granted, maintained, or 63677  
renewed, including initiation fees, membership dues, renewal fees, 63678  
monthly minimum fees, and other similar fees and dues, by a 63679  
recreation and sports club, which entitles the member to use the 63680  
facilities of the organization. "Recreation and sports club" means 63681  
an organization that has ownership of, or controls or leases on a 63682  
continuing, long-term basis, the facilities used by its members 63683  
and includes an aviation club, gun or shooting club, yacht club, 63684  
card club, swimming club, tennis club, golf club, country club, 63685  
riding club, amateur sports club, or similar organization. 63686

(OO) "Livestock" means farm animals commonly raised for food 63687  
or food production, and includes but is not limited to cattle, 63688  
sheep, goats, swine, and poultry. "Livestock" does not include 63689  
invertebrates, fish, amphibians, reptiles, horses, domestic pets, 63690  
animals for use in laboratories or for exhibition, or other 63691  
animals not commonly raised for food or food production. 63692

(PP) "Livestock structure" means a building or structure used 63693  
exclusively for the housing, raising, feeding, or sheltering of 63694  
livestock, and includes feed storage or handling structures and 63695  
structures for livestock waste handling. 63696

(QQ) "Horticulture" means the growing, cultivation, and 63697  
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 63698  
and nursery stock. As used in this division, "nursery stock" has 63699  
the same meaning as in section 927.51 of the Revised Code. 63700

(RR) "Horticulture structure" means a building or structure 63701  
used exclusively for the commercial growing, raising, or 63702  
overwintering of horticultural products, and includes the area 63703

used for stocking, storing, and packing horticultural products 63704  
when done in conjunction with the production of those products. 63705

(SS) "Newspaper" means an unbound publication bearing a title 63706  
or name that is regularly published, at least as frequently as 63707  
biweekly, and distributed from a fixed place of business to the 63708  
public in a specific geographic area, and that contains a 63709  
substantial amount of news matter of international, national, or 63710  
local events of interest to the general public. 63711

(TT) "Professional racing team" means a person that employs 63712  
at least twenty full-time employees for the purpose of conducting 63713  
a motor vehicle racing business for profit. The person must 63714  
conduct the business with the purpose of racing one or more motor 63715  
racing vehicles in at least ten competitive professional racing 63716  
events each year that comprise all or part of a motor racing 63717  
series sanctioned by one or more motor racing sanctioning 63718  
organizations. A "motor racing vehicle" means a vehicle for which 63719  
the chassis, engine, and parts are designed exclusively for motor 63720  
racing, and does not include a stock or production model vehicle 63721  
that may be modified for use in racing. For the purposes of this 63722  
division: 63723

(1) A "competitive professional racing event" is a motor 63724  
vehicle racing event sanctioned by one or more motor racing 63725  
sanctioning organizations, at which aggregate cash prizes in 63726  
excess of eight hundred thousand dollars are awarded to the 63727  
competitors. 63728

(2) "Full-time employee" means an individual who is employed 63729  
for consideration for thirty-five or more hours a week, or who 63730  
renders any other standard of service generally accepted by custom 63731  
or specified by contract as full-time employment. 63732

(UU)(1) ~~"Prepaid authorization number" means a numeric or 63733  
alphanumeric combination that represents a prepaid account that 63734~~



~~can be used by the account holder solely to obtain 63735  
telecommunications service, and includes any renewals or increases 63736  
in the prepaid account. 63737~~

~~(2) "Prepaid telephone calling card" means a tangible item 63738  
that contains a prepaid authorization number that can be used 63739  
solely to obtain telecommunications service, and includes any 63740  
renewals or increases in the prepaid account. 63741~~

~~(VV) "Lease" or "rental" means any transfer for a 63742  
consideration of the possession or control of and right to use, 63743  
but not title to, tangible personal property for a fixed period of 63744  
time greater than thirty days or for an open ended period of time 63745  
with a minimum fixed period of more than thirty days or indefinite 63746  
term, for consideration. "Lease" or "rental" includes future 63747  
options to purchase or extend, and agreements described in 26 63748  
U.S.C. 7701(h)(1) covering motor vehicles and trailers where the 63749  
amount of consideration may be increased or decreased by reference 63750  
to the amount realized upon the sale or disposition of the 63751  
property. "Lease" or "rental" does not include: 63752~~

~~(a) A transfer of possession or control of tangible personal 63753  
property under a security agreement or a deferred payment plan 63754  
that requires the transfer of title upon completion of the 63755  
required payments; 63756~~

~~(b) A transfer of possession or control of tangible personal 63757  
property under an agreement that requires the transfer of title 63758  
upon completion of required payments and payment of an option 63759  
price that does not exceed the greater of one hundred dollars or 63760  
one per cent of the total required payments; 63761~~

~~(c) Providing tangible personal property along with an 63762  
operator for a fixed or indefinite period of time, if the operator 63763  
is necessary for the property to perform as designed. For purposes 63764  
of this division, the operator must do more than maintain, 63765~~

inspect, or set-up the tangible personal property. 63766

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before the effective date of this amendment. 63767  
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(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws. 63770  
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~~(WW)~~(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling. 63775  
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~~(XX)~~(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code. 63782  
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(XX) "Satellite television service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite television service. 63784  
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(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible 63793  
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personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software. 63797  
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(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address. 63799  
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(AAA) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions. 63809  
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(BBB) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task. 63812  
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(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media. 63815  
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(DDD) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of 63818  
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which the person is not the author or creator, the person shall be 63828  
deemed to be the author or creator only of such person's 63829  
modifications or enhancements. Prewritten computer software or a 63830  
prewritten portion thereof that is modified or enhanced to any 63831  
degree, where such modification or enhancement is designed and 63832  
developed to the specifications of a specific purchaser, remains 63833  
prewritten computer software; provided, however, that where there 63834  
is a reasonable, separately stated charge or an invoice or other 63835  
statement of the price given to the purchaser for the modification 63836  
or enhancement, the modification or enhancement shall not 63837  
constitute prewritten computer software. 63838

(EEE)(1) "Food" means substances, whether in liquid, 63839  
concentrated, solid, frozen, dried, or dehydrated form, that are 63840  
sold for ingestion or chewing by humans and are consumed for their 63841  
taste or nutritional value. "Food" does not include alcoholic 63842  
beverages, dietary supplements, soft drinks, or tobacco. 63843

(2) As used in division (EEE)(1) of this section: 63844

(a) "Alcoholic beverages" means beverages that are suitable 63845  
for human consumption and contain one-half of one per cent or more 63846  
of alcohol by volume. 63847

(b) "Dietary supplements" means any product, other than 63848  
tobacco, that is intended to supplement the diet and that is 63849  
intended for ingestion in tablet, capsule, powder, softgel, 63850  
gelcap, or liquid form, or, if not intended for ingestion in such 63851  
a form, is not represented as conventional food for use as a sole 63852  
item of a meal or of the diet; that is required to be labeled as a 63853  
dietary supplement, identifiable by the "supplement facts" box 63854  
found on the label, as required by 21 C.F.R. 101.36; and that 63855  
contains one or more of the following dietary ingredients: 63856

(i) A vitamin; 63857

(ii) A mineral; 63858

<u>(iii) An herb or other botanical;</u>	63859
<u>(iv) An amino acid;</u>	63860
<u>(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;</u>	63861 63862
<u>(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)(2)(b)(i) to (v) of this section.</u>	63863 63864 63865
<u>(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.</u>	63866 63867 63868 63869 63870
<u>(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.</u>	63871 63872
<u>(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.</u>	63873 63874 63875 63876 63877 63878 63879 63880 63881
<u>(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.</u>	63882 63883 63884 63885
<u>(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve</u>	63886 63887 63888

a medical purpose, generally is not useful to a person in the 63889  
absence of illness or injury, and is not worn in or on the body. 63890

(III) "Mobility enhancing equipment" means equipment, 63891  
including repair and replacement parts for such equipment, that is 63892  
primarily and customarily used to provide or increase the ability 63893  
to move from one place to another and is appropriate for use 63894  
either in a home or a motor vehicle, that is not generally used by 63895  
persons with normal mobility, and that does not include any motor 63896  
vehicle or equipment on a motor vehicle normally provided by a 63897  
motor vehicle manufacturer. 63898

(JJJ) "Prosthetic device" means a replacement, corrective, or 63899  
supportive device, including repair and replacement parts for the 63900  
device, worn on or in the human body to artificially replace a 63901  
missing portion of the body, prevent or correct physical deformity 63902  
or malfunction, or support a weak or deformed portion of the body. 63903  
As used in this division, "prosthetic device" does not include 63904  
corrective eyeglasses, contact lenses, or dental prosthesis. 63905

(KKK)(1) "Fractional aircraft ownership program" means a 63906  
program in which persons within an affiliated group sell and 63907  
manage fractional ownership program aircraft, provided that at 63908  
least three hundred airworthy aircraft are operated in the program 63909  
and the program meets all of the following criteria: 63910

(a) Management services are provided by at least one program 63911  
manager within an affiliated group on behalf of the fractional 63912  
owners. 63913

(b) Each program aircraft is owned or possessed by at least 63914  
one fractional owner. 63915

(c) Each fractional owner owns or possesses at least a 63916  
one-sixteenth interest in at least one fixed-wing program 63917  
aircraft. 63918

(d) A dry-lease aircraft interchange arrangement is in effect 63919

among all of the fractional owners. 63920

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program. 63921  
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(2) As used in division (KKK)(1) of this section: 63924

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section. 63925  
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(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section. 63927  
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(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program. 63931  
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(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program. 63938  
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(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

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**Sec. 5739.011.** (A) As used in this section: 63954

(1) "Manufacturer" means a person who is engaged in manufacturing, processing, assembling, or refining a product for sale.

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(2) "Manufacturing facility" means a single location where a manufacturing operation is conducted, including locations 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)~~(B)(43)(g) of section 63981  
~~5739.01~~ 5739.02 of the Revised Code, the "thing transferred" 63982  
includes, but is not limited to, any of the following: 63983

(1) Production machinery and equipment that act upon the 63984  
product or machinery and equipment that treat the materials or 63985  
parts in preparation for the manufacturing operation; 63986

(2) Materials handling equipment that moves the product 63987  
through a continuous manufacturing operation; equipment that 63988  
temporarily stores the product during the manufacturing operation; 63989  
or, excluding motor vehicles licensed to operate on public 63990  
highways, equipment used in intraplant or interplant transfers of 63991  
work in process where the plant or plants between which such 63992  
transfers occur are manufacturing facilities operated by the same 63993  
person; 63994

(3) Catalysts, solvents, water, acids, oil, and similar 63995  
consumables that interact with the product and that are an 63996  
integral part of the manufacturing operation; 63997

(4) Machinery, equipment, and other tangible personal 63998  
property used during the manufacturing operation that control, 63999  
physically support, produce power for, lubricate, or are otherwise 64000  
necessary for the functioning of production machinery and 64001  
equipment and the continuation of the manufacturing operation; 64002

(5) Machinery, equipment, fuel, power, material, parts, and 64003  
other tangible personal property used to manufacture machinery, 64004  
equipment, or other tangible personal property used in 64005  
manufacturing a product for sale; 64006

(6) Machinery, equipment, and other tangible personal 64007  
property used by a manufacturer to test raw materials, the product 64008  
being manufactured, or the completed product; 64009

(7) Machinery and equipment used to handle or temporarily 64010

store scrap that is intended to be reused in the manufacturing operation at the same manufacturing facility;

(8) Coke, gas, water, steam, and similar substances used in the manufacturing operation; machinery and equipment used for, and fuel consumed in, producing or extracting those substances; machinery, equipment, and other tangible personal property used to treat, filter, pump, or otherwise make the substance suitable for use in the manufacturing operation; and machinery and equipment used for, and fuel consumed in, producing electricity for use in the manufacturing operation;

(9) Machinery, equipment, and other tangible personal property used to transport or transmit electricity, coke, gas, water, steam, or similar substances used in the manufacturing operation from the point of generation, if produced by the manufacturer, or from the point where the substance enters the manufacturing facility, if purchased by the manufacturer, to the manufacturing operation;

(10) Machinery, equipment, and other tangible personal property that treats, filters, cools, refines, or otherwise renders water, steam, acid, oil, solvents, or similar substances used in the manufacturing operation reusable, provided that the substances are intended for reuse and not for disposal, sale, or transportation from the manufacturing facility;

(11) Parts, components, and repair and installation services for items described in division (B) of this section.

(C) For purposes of division ~~(E)-(9)~~(B)(43)(g) of section ~~5739.01~~ 5739.02 of the Revised Code, the "thing transferred" does not include any of the following:

(1) Tangible personal property used in administrative, personnel, security, inventory control, record-keeping, ordering, billing, or similar functions;

(2) Tangible personal property used in storing raw materials	64042
or parts prior to the commencement of the manufacturing operation	64043
or used to handle or store a completed product, including storage	64044
that actively maintains a completed product in a marketable state	64045
or form;	64046
(3) Tangible personal property used to handle or store scrap	64047
or waste intended for disposal, sale, or other disposition, other	64048
than reuse in the manufacturing operation at the same	64049
manufacturing facility;	64050
(4) Tangible personal property that is or is to be	64051
incorporated into realty;	64052
(5) Machinery, equipment, and other tangible personal	64053
property used for ventilation, dust or gas collection, humidity or	64054
temperature regulation, or similar environmental control, except	64055
machinery, equipment, and other tangible personal property that	64056
totally regulates the environment in a special and limited area of	64057
the manufacturing facility where the regulation is essential for	64058
production to occur;	64059
(6) Tangible personal property used for the protection and	64060
safety of workers, unless the property is attached to or	64061
incorporated into machinery and equipment used in a continuous	64062
manufacturing operation;	64063
(7) Tangible personal property used to store fuel, water,	64064
solvents, acid, oil, or similar items consumed in the	64065
manufacturing operation;	64066
(8) Machinery, equipment, and other tangible personal	64067
property used to clean, repair, or maintain real or personal	64068
property in the manufacturing facility;	64069
(9) Motor vehicles registered for operation on public	64070
highways.	64071

(D) For purposes of division ~~(E)(9)~~(B)(43)(g) of section 64072  
~~5739.01~~ 5739.02 of the Revised Code, if the "thing transferred" is 64073  
a machine used by a manufacturer in both a taxable and an exempt 64074  
manner, it shall be totally taxable or totally exempt from 64075  
taxation based upon its quantified primary use. If the "things 64076  
transferred" are fungibles, they shall be taxed based upon the 64077  
proportion of the fungibles used in a taxable manner. 64078

**Sec. 5739.012.** (A) As used in this section: 64079

(1) "Sham transaction" means a transaction or series of 64080  
transactions without economic substance because there is no 64081  
business purpose or expectation of profit other than obtaining tax 64082  
benefits. 64083

(2) "Tax" includes only those taxes levied by or pursuant to 64084  
Chapter 5739. of the Revised Code that are required to be 64085  
calculated and collected as prescribed by division ~~(H)(4)~~(A)(2) of 64086  
section ~~5739.01~~ 5739.02 of the Revised Code. 64087

(3) "Taxpayer" includes any person required to pay or to 64088  
collect and remit tax. 64089

(B)(1) The tax commissioner may disregard any sham 64090  
transaction and ascertain a taxpayer's liability for tax without 64091  
the sham transaction. 64092

(2) A lease with a renewal clause and a termination penalty 64093  
or similar provision that applies if the renewal clause is not 64094  
exercised is presumed to be a sham transaction. In such a case, 64095  
the tax shall be calculated and paid on the basis of the entire 64096  
length of the lease period, including any renewal periods, until 64097  
the termination penalty or similar provision no longer applies. 64098  
The taxpayer shall bear the burden of establishing, by a 64099  
preponderance of the evidence, that the transaction or series of 64100  
transactions is not a sham transaction. 64101

(C) The tax commissioner may prescribe rules to administer 64102  
this section. 64103

**Sec. 5739.02.** For the purpose of providing revenue with which 64104  
to meet the needs of the state, for the use of the general revenue 64105  
fund of the state, for the purpose of securing a thorough and 64106  
efficient system of common schools throughout the state, for the 64107  
purpose of affording revenues, in addition to those from general 64108  
property taxes, permitted under constitutional limitations, and 64109  
from other sources, for the support of local governmental 64110  
functions, and for the purpose of reimbursing the state for the 64111  
expense of administering this chapter, an excise tax is hereby 64112  
levied on each retail sale made in this state. 64113

(A)(1) ~~The tax shall be collected pursuant to the schedules~~ 64114  
as provided in section 5739.025 of the Revised Code, provided that 64115  
on and after July 1, 2003, and on or before June 30, 2005, the 64116  
rate of tax shall be six per cent. On and after July 1, 2005, the 64117  
rate of the tax shall be five per cent. The 64118

~~The~~ tax applies and is collectible when the sale is made, 64119  
regardless of the time when the price is paid or delivered. 64120

~~In~~ (2) In the case of the lease or rental, with a fixed term 64121  
of more than thirty days or an indefinite term with a minimum 64122  
period of more than thirty days, of any motor vehicles designed by 64123  
the manufacturer to carry a load of not more than one ton, 64124  
watercraft, outboard motor, or aircraft, or of any tangible 64125  
personal property, other than motor vehicles designed by the 64126  
manufacturer to carry a load of more than one ton, to be used by 64127  
the lessee or renter primarily for business purposes, the tax 64128  
shall be collected by the vendor at the time the lease or rental 64129  
is consummated and shall be calculated by the vendor on the basis 64130  
of the total amount to be paid by the lessee or renter under the 64131  
lease agreement. If the total amount of the consideration for the 64132

lease or rental includes amounts that are not calculated at the 64133  
time the lease or rental is executed, the tax shall be calculated 64134  
and collected by the vendor at the time such amounts are billed to 64135  
the lessee or renter. In the case of an open-end lease or rental, 64136  
the tax shall be calculated by the vendor on the basis of the 64137  
total amount to be paid during the initial fixed term of the lease 64138  
or rental, and for each subsequent renewal period as it comes due. 64139  
As used in this division, "motor vehicle" has the same meaning as 64140  
in section 4501.01 of the Revised Code, and "watercraft" includes 64141  
an outdrive unit attached to the watercraft. 64142

(3) Except as provided in division (A)(2) of this section, in 64143  
the case of a sale, the price of which consists in whole or in 64144  
part of ~~rentals for the use of the thing transferred~~ the lease or 64145  
rental of tangible personal property, the tax, ~~as regards those~~ 64146  
~~rentals,~~ shall be measured by the installments of ~~those rentals~~ 64147  
that lease or rental. 64148

(4) In the case of a sale of a physical fitness facility 64149  
service or recreation and sports club service defined under 64150  
~~division (MM) or (NN) of section 5739.01 of the Revised Code,~~ the 64151  
price of which consists in whole or in part of a membership for 64152  
the receipt of the benefit of the service, the tax applicable to 64153  
the sale shall be measured by the installments thereof. 64154

(B) The tax does not apply to the following: 64155

(1) Sales to the state or any of its political subdivisions, 64156  
or to any other state or its political subdivisions if the laws of 64157  
that state exempt from taxation sales made to this state and its 64158  
political subdivisions; 64159

(2) Sales of food for human consumption off the premises 64160  
where sold; 64161

(3) Sales of food sold to students only in a cafeteria, 64162  
dormitory, fraternity, or sorority maintained in a private, 64163

public, or parochial school, college, or university;	64164
(4) Sales of newspapers and of magazine subscriptions and sales or transfers of magazines distributed as controlled circulation publications;	64165 64166 64167
(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;	64168 64169 64170 64171
(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under <u>division (A) of section 5735.14</u> of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to <u>division (A) of section 5735.14</u> of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;	64172 64173 64174 64175 64176 64177 64178 64179 64180 64181
(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a <del>telephone or</del> telegraph company, all terms as defined in section 5727.01 of the Revised Code;	64182 64183 64184 64185 64186 64187
(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;	64188 64189 64190 64191 64192 64193 64194

(9) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization, except that sales made by separate student clubs and other groups of students of a primary or secondary school, and sales made by a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school, shall not be considered to be sales of such school, and sales by each such club, group, association, or organization shall be counted separately for purposes of the six-day limitation. This division does not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution of the United States;

(11) The Except for transactions that are sales under division (B)(3)(s) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to



churches, to organizations exempt from taxation under section 64227  
501(c)(3) of the Internal Revenue Code of 1986, and to any other 64228  
nonprofit organizations operated exclusively for charitable 64229  
purposes in this state, no part of the net income of which inures 64230  
to the benefit of any private shareholder or individual, and no 64231  
substantial part of the activities of which consists of carrying 64232  
on propaganda or otherwise attempting to influence legislation; 64233  
sales to offices administering one or more homes for the aged or 64234  
one or more hospital facilities exempt under section 140.08 of the 64235  
Revised Code; and sales to organizations described in division (D) 64236  
of section 5709.12 of the Revised Code. 64237

"Charitable purposes" means the relief of poverty; the 64238  
improvement of health through the alleviation of illness, disease, 64239  
or injury; the operation of an organization exclusively for the 64240  
provision of professional, laundry, printing, and purchasing 64241  
services to hospitals or charitable institutions; the operation of 64242  
a home for the aged, as defined in section 5701.13 of the Revised 64243  
Code; the operation of a radio or television broadcasting station 64244  
that is licensed by the federal communications commission as a 64245  
noncommercial educational radio or television station; the 64246  
operation of a nonprofit animal adoption service or a county 64247  
humane society; the promotion of education by an institution of 64248  
learning that maintains a faculty of qualified instructors, 64249  
teaches regular continuous courses of study, and confers a 64250  
recognized diploma upon completion of a specific curriculum; the 64251  
operation of a parent-teacher association, booster group, or 64252  
similar organization primarily engaged in the promotion and 64253  
support of the curricular or extracurricular activities of a 64254  
primary or secondary school; the operation of a community or area 64255  
center in which presentations in music, dramatics, the arts, and 64256  
related fields are made in order to foster public interest and 64257  
education therein; the production of performances in music, 64258  
dramatics, and the arts; or the promotion of education by an 64259

organization engaged in carrying on research in, or the 64260  
dissemination of, scientific and technological knowledge and 64261  
information primarily for the public. 64262

Nothing in this division shall be deemed to exempt sales to 64263  
any organization for use in the operation or carrying on of a 64264  
trade or business, or sales to a home for the aged for use in the 64265  
operation of independent living facilities as defined in division 64266  
(A) of section 5709.12 of the Revised Code. 64267

(13) Building and construction materials and services sold to 64268  
construction contractors for incorporation into a structure or 64269  
improvement to real property under a construction contract with 64270  
this state or a political subdivision of this state, or with the 64271  
United States government or any of its agencies; building and 64272  
construction materials and services sold to construction 64273  
contractors for incorporation into a structure or improvement to 64274  
real property that are accepted for ownership by this state or any 64275  
of its political subdivisions, or by the United States government 64276  
or any of its agencies at the time of completion of the structures 64277  
or improvements; building and construction materials sold to 64278  
construction contractors for incorporation into a horticulture 64279  
structure or livestock structure for a person engaged in the 64280  
business of horticulture or producing livestock; building 64281  
materials and services sold to a construction contractor for 64282  
incorporation into a house of public worship or religious 64283  
education, or a building used exclusively for charitable purposes 64284  
under a construction contract with an organization whose purpose 64285  
is as described in division (B)(12) of this section; building 64286  
materials and services sold to a construction contractor for 64287  
incorporation into a building under a construction contract with 64288  
an organization exempt from taxation under section 501(c)(3) of 64289  
the Internal Revenue Code of 1986 when the building is to be used 64290  
exclusively for the organization's exempt purposes; building and 64291

construction materials sold for incorporation into the original 64292  
construction of a sports facility under section 307.696 of the 64293  
Revised Code; and building and construction materials and services 64294  
sold to a construction contractor for incorporation into real 64295  
property outside this state if such materials and services, when 64296  
sold to a construction contractor in the state in which the real 64297  
property is located for incorporation into real property in that 64298  
state, would be exempt from a tax on sales levied by that state; 64299

(14) Sales of ships or vessels or rail rolling stock used or 64300  
to be used principally in interstate or foreign commerce, and 64301  
repairs, alterations, fuel, and lubricants for such ships or 64302  
vessels or rail rolling stock; 64303

(15) Sales to persons engaged in any of the activities 64304  
mentioned in division ~~(E)(2)(B)(43)(a)~~ or ~~(9)(g)~~ of this section 64305  
~~5739.01 of the Revised Code~~, to persons engaged in making retail 64306  
sales, or to persons who purchase for sale from a manufacturer 64307  
tangible personal property that was produced by the manufacturer 64308  
in accordance with specific designs provided by the purchaser, of 64309  
packages, including material, labels, and parts for packages, and 64310  
of machinery, equipment, and material for use primarily in 64311  
packaging tangible personal property produced for sale, including 64312  
any machinery, equipment, and supplies used to make labels or 64313  
packages, to prepare packages or products for labeling, or to 64314  
label packages or products, by or on the order of the person doing 64315  
the packaging, or sold at retail. "Packages" includes bags, 64316  
baskets, cartons, crates, boxes, cans, bottles, bindings, 64317  
wrappings, and other similar devices and containers, and 64318  
"packaging" means placing therein. 64319

(16) Sales of food to persons using food stamp benefits to 64320  
purchase the food. As used in this division ~~(B)(16)~~ of this 64321  
~~section~~, "food" has the same meaning as in the "Food Stamp Act of 64322  
1977," 91 Stat. 958, 7 U.S.C. 2012, as amended, and federal 64323

regulations adopted pursuant to that act. 64324

(17) Sales to persons engaged in farming, agriculture, 64325  
horticulture, or floriculture, of tangible personal property for 64326  
use or consumption directly in the production by farming, 64327  
agriculture, horticulture, or floriculture of other tangible 64328  
personal property for use or consumption directly in the 64329  
production of tangible personal property for sale by farming, 64330  
agriculture, horticulture, or floriculture; or material and parts 64331  
for incorporation into any such tangible personal property for use 64332  
or consumption in production; and of tangible personal property 64333  
for such use or consumption in the conditioning or holding of 64334  
products produced by and for such use, consumption, or sale by 64335  
persons engaged in farming, agriculture, horticulture, or 64336  
floriculture, except where such property is incorporated into real 64337  
property; 64338

(18) Sales of drugs ~~for a human being,~~ dispensed by a 64339  
~~licensed pharmacist upon the order of a licensed health~~ 64340  
~~professional authorized to prescribe drugs to a human being, as~~ 64341  
~~the term "licensed health professional authorized to prescribe~~ 64342  
~~drugs" is defined in section 4729.01 of the Revised Code pursuant~~ 64343  
to a prescription; insulin as recognized in the official United 64344  
States pharmacopoeia; urine and blood testing materials when used 64345  
by diabetics or persons with hypoglycemia to test for glucose or 64346  
acetone; hypodermic syringes and needles when used by diabetics 64347  
for insulin injections; ~~epoetin alfa when purchased for use in the~~ 64348  
~~treatment of persons with end stage renal disease;~~ hospital beds 64349  
when purchased for use by persons with medical problems for 64350  
medical purposes; and medical oxygen and medical oxygen-dispensing 64351  
equipment when purchased for use by persons with medical problems 64352  
for medical purposes; 64353

(19)(a) Sales of ~~artificial limbs or portion thereof, breast~~ 64354  
~~prostheses, and other~~ prosthetic devices ~~for humans; braces or~~ 64355

~~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 supplement impaired functions of the human body such as respiration, hearing, or elimination;~~

~~(b) Sales of wheelchairs; items incorporated into or used in conjunction with a motor vehicle for the purpose of transporting wheelchairs, other than transportation conducted in connection with the sale or delivery of wheelchairs; and items incorporated into or used in conjunction with a motor vehicle that are specifically designed to assist a person with a disability to access or operate the motor vehicle. As used in this division, "person with a disability" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or disabled to the extent that the person is unable to move about without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other disabling condition.~~

~~(c) No exemption under this division shall be allowed for nonprescription drugs, medicines, or remedies; items or devices used to supplement vision; items or devices whose function is solely or primarily cosmetic; or physical fitness equipment. This division does not apply to sales to a physician or medical facility for use in the treatment of a patient, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.~~

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;

(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;

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(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;

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(23) Sales of motor vehicles to nonresidents of this state upon the presentation of an affidavit executed in this state by the nonresident purchaser affirming that the purchaser is a nonresident of this state, that possession of the motor vehicle is taken in this state for the sole purpose of immediately removing it from this state, that the motor vehicle will be permanently titled and registered in another state, and that the motor vehicle will not be used in this state;

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(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats,

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cartons, closure materials, labels, and labeling materials, and	64420
"packaging" means placing therein.	64421
(25)(a) Sales of water to a consumer for residential use,	64422
except the sale of bottled water, distilled water, mineral water,	64423
carbonated water, or ice;	64424
(b) Sales of water by a nonprofit corporation engaged	64425
exclusively in the treatment, distribution, and sale of water to	64426
consumers, if such water is delivered to consumers through pipes	64427
or tubing.	64428
(26) Fees charged for inspection or reinspection of motor	64429
vehicles under section 3704.14 of the Revised Code;	64430
(27) Sales to persons licensed to conduct a food service	64431
operation pursuant to section 3717.43 of the Revised Code, of	64432
tangible personal property primarily used directly for the	64433
following:	64434
(a) To prepare food for human consumption for sale;	64435
(b) To preserve food that has been or will be prepared for	64436
human consumption for sale by the food service operator, not	64437
including tangible personal property used to display food for	64438
selection by the consumer;	64439
(c) To clean tangible personal property used to prepare or	64440
serve food for human consumption for sale.	64441
(28) Sales of animals by nonprofit animal adoption services	64442
or county humane societies;	64443
(29) Sales of services to a corporation described in division	64444
(A) of section 5709.72 of the Revised Code, and sales of tangible	64445
personal property that qualifies for exemption from taxation under	64446
section 5709.72 of the Revised Code;	64447
(30) Sales and installation of agricultural land tile, as	64448
defined in division (B)(5)(a) of section 5739.01 of the Revised	64449

Code; 64450

(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; 64451  
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(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property by a person engaged in highway transportation for hire; 64454  
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(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters; 64458  
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(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite television service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division ~~(B)(34) of this section~~ shall be in lieu of all other ~~exceptions~~ exemptions under division ~~(E)(2)(B)(43)(a) of this section 5739.01 of the Revised Code~~ to which a ~~telecommunications service~~ the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite television service. 64463  
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(35) Sales of investment metal bullion and investment coins. "Investment metal bullion" means any elementary precious metal 64479  
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that has been put through a process of smelting or refining, 64481  
including, but not limited to, gold, silver, platinum, and 64482  
palladium, and which is in such state or condition that its value 64483  
depends upon its content and not upon its form. "Investment metal 64484  
bullion" does not include fabricated precious metal that has been 64485  
processed or manufactured for one or more specific and customary 64486  
industrial, professional, or artistic uses. "Investment coins" 64487  
means numismatic coins or other forms of money and legal tender 64488  
manufactured of gold, silver, platinum, palladium, or other metal 64489  
under the laws of the United States or any foreign nation with a 64490  
fair market value greater than any statutory or nominal value of 64491  
such coins. 64492

(36)(a) Sales where the purpose of the consumer is to use or 64493  
consume the things transferred in making retail sales and 64494  
consisting of newspaper inserts, catalogues, coupons, flyers, gift 64495  
certificates, or other advertising material that prices and 64496  
describes tangible personal property offered for retail sale. 64497

(b) Sales to direct marketing vendors of preliminary 64498  
materials such as photographs, artwork, and typesetting that will 64499  
be used in printing advertising material; of printed matter that 64500  
offers free merchandise or chances to win sweepstake prizes and 64501  
that is mailed to potential customers with advertising material 64502  
described in division (B)(36)(a) of this section; and of equipment 64503  
such as telephones, computers, facsimile machines, and similar 64504  
tangible personal property primarily used to accept orders for 64505  
direct marketing retail sales. 64506

(c) Sales of automatic food vending machines that preserve 64507  
food with a shelf life of forty-five days or less by refrigeration 64508  
and dispense it to the consumer. 64509

For purposes of division (B)(36) of this section, "direct 64510  
marketing" means the method of selling where consumers order 64511  
tangible personal property by United States mail, delivery 64512

service, or telecommunication and the vendor delivers or ships the 64513  
tangible personal property sold to the consumer from a warehouse, 64514  
catalogue distribution center, or similar fulfillment facility by 64515  
means of the United States mail, delivery service, or common 64516  
carrier. 64517

(37) Sales to a person engaged in the business of 64518  
horticulture or producing livestock of materials to be 64519  
incorporated into a horticulture structure or livestock structure; 64520

~~(38) The sale of a motor vehicle that is used exclusively for 64521  
a vanpool ridesharing arrangement to persons participating in the 64522  
vanpool ridesharing arrangement when the vendor is selling the 64523  
vehicle pursuant to a contract between the vendor and the 64524  
department of transportation; 64525~~

~~(39) Sales of personal computers, computer monitors, computer 64526  
keyboards, modems, and other peripheral computer equipment to an 64527  
individual who is licensed or certified to teach in an elementary 64528  
or a secondary school in this state for use by that individual in 64529  
preparation for teaching elementary or secondary school students; 64530~~

~~(40)~~(39) Sales to a professional racing team of any of the 64531  
following: 64532

(a) Motor racing vehicles; 64533

(b) Repair services for motor racing vehicles; 64534

(c) Items of property that are attached to or incorporated in 64535  
motor racing vehicles, including engines, chassis, and all other 64536  
components of the vehicles, and all spare, replacement, and 64537  
rebuilt parts or components of the vehicles; except not including 64538  
tires, consumable fluids, paint, and accessories consisting of 64539  
instrumentation sensors and related items added to the vehicle to 64540  
collect and transmit data by means of telemetry and other forms of 64541  
communication. 64542

~~(41)~~(40) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;

~~(42)~~(41) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other ~~exceptions~~ exemptions in division ~~(E)(2)~~(B)(43)(a) of this section 5739.01 of the Revised Code to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

(42) Sales to a person providing services under division (B)(3)(s) of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in providing taxable services under that section.

(43) Sales where the purpose of the purchaser is to do any of the following:

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible

personal property for sale by mining, including, without 64574  
limitation, the extraction from the earth of all substances that 64575  
are classed geologically as minerals, production of crude oil and 64576  
natural gas, farming, agriculture, horticulture, or floriculture, 64577  
or directly in the rendition of a public utility service, except 64578  
that the sales tax levied by this section shall be collected upon 64579  
all meals, drinks, and food for human consumption sold when 64580  
transporting persons. Persons engaged in rendering farming, 64581  
agricultural, horticultural, or floricultural services, and 64582  
services in the exploration for, and production of, crude oil and 64583  
natural gas, for others are deemed engaged directly in farming, 64584  
agriculture, horticulture, and floriculture, or exploration for, 64585  
and production of, crude oil and natural gas. This paragraph does 64586  
not exempt from "retail sale" or "sales at retail" the sale of 64587  
tangible personal property that is to be incorporated into a 64588  
structure or improvement to real property. 64589

(b) To hold the thing transferred as security for the 64590  
performance of an obligation of the vendor; 64591

(c) To resell, hold, use, or consume the thing transferred as 64592  
evidence of a contract of insurance; 64593

(d) To use or consume the thing directly in commercial 64594  
fishing; 64595

(e) To incorporate the thing transferred as a material or a 64596  
part into, or to use or consume the thing transferred directly in 64597  
the production of, magazines distributed as controlled circulation 64598  
publications; 64599

(f) To use or consume the thing transferred in the production 64600  
and preparation in suitable condition for market and sale of 64601  
printed, imprinted, overprinted, lithographic, multilithic, 64602  
blueprinted, photostatic, or other productions or reproductions of 64603  
written or graphic matter; 64604

(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale; 64605  
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(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section; 64608  
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(i) To use the thing transferred as qualified research and development equipment; 64614  
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(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B)(3)(e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B)(36) of this section. 64616  
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(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code; 64629  
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(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public; 64636  
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(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service. 64638  
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As used in division (B)(43) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code. 64643  
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(44) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction. 64646  
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(45) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services. 64653  
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(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established. 64659  
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~~As used in this section, except in division (B)(16) of this section, "food" includes cereals and cereal products, milk and milk products including ice cream, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable~~ 64663  
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~~products, fruits, fruit products, and pure fruit juices, 64667  
condiments, sugar and sugar products, coffee and coffee 64668  
substitutes, tea, and cocoa and cocoa products. It does not 64669  
include: spirituous liquors, wine, mixed beverages, or beer; soft 64670  
drinks; sodas and beverages that are ordinarily dispensed at or in 64671  
connection with bars and soda fountains, other than coffee, tea, 64672  
and cocoa; root beer and root beer extracts; malt and malt 64673  
extracts; mineral oils, cod liver oils, and halibut liver oil; 64674  
medicines, including tonics, vitamin preparations, and other 64675  
products sold primarily for their medicinal properties; and water, 64676  
including mineral, bottled, and carbonated waters, and ice. 64677~~

~~(C)(D) The levy of this tax on retail sales of recreation and 64678  
sports club service shall not prevent a municipal corporation from 64679  
levying any tax on recreation and sports club dues or on any 64680  
income generated by recreation and sports club dues. 64681~~

~~(E) The tax collected by the vendor from the consumer under 64682  
this chapter is not part of the price, but is a tax collection for 64683  
the benefit of the state, and of counties levying an additional 64684  
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 64685  
Code and of transit authorities levying an additional sales tax 64686  
pursuant to section 5739.023 of the Revised Code. Except for the 64687  
discount authorized under section 5739.12 of the Revised Code and 64688  
the effects of any rounding pursuant to section 5703.055 of the 64689  
Revised Code, no person other than the state or such a county or 64690  
transit authority shall derive any benefit from the collection or 64691  
payment of the tax levied by this section or section 5739.021, 64692  
5739.023, or 5739.026 of the Revised Code. 64693~~

**Sec. 5739.021.** (A) For the purpose of providing additional 64694  
general revenues for the county or supporting criminal and 64695  
administrative justice services in the county, or both, and to pay 64696  
the expenses of administering such levy, any county may levy a tax 64697

at the rate of not more than one per cent at any multiple of 64698  
one-fourth of one per cent upon every retail sale made in the 64699  
county, except sales of watercraft and outboard motors required to 64700  
be titled pursuant to Chapter 1548. of the Revised Code and sales 64701  
of motor vehicles, and may increase the rate of an existing tax to 64702  
not more than one per cent at any multiple of one-fourth of one 64703  
per cent. 64704

The tax shall be levied and the rate increased pursuant to a 64705  
resolution of the board of county commissioners. The resolution 64706  
shall state the purpose for which the tax is to be levied and the 64707  
number of years for which the tax is to be levied, or that it is 64708  
for a continuing period of time. If the tax is to be levied for 64709  
the purpose of providing additional general revenues and for the 64710  
purpose of supporting criminal and administrative justice 64711  
services, the resolution shall state the rate or amount of the tax 64712  
to be apportioned to each such purpose. The rate or amount may be 64713  
different for each year the tax is to be levied, but the rates or 64714  
amounts actually apportioned each year shall not be different from 64715  
that stated in the resolution for that year. If the resolution is 64716  
adopted as an emergency measure necessary for the immediate 64717  
preservation of the public peace, health, or safety, it must 64718  
receive an affirmative vote of all of the members of the board of 64719  
county commissioners and shall state the reasons for such 64720  
necessity. A The board shall deliver a certified copy of the 64721  
resolution ~~shall be delivered~~ to the tax commissioner ~~either~~ 64722  
~~personally or by certified mail,~~ not later than the ~~sixtieth~~ 64723  
sixty-fifth day prior to the date on which the tax is to become 64724  
effective, which shall be the first day of the calendar quarter. 64725

Prior to the adoption of any resolution under this section, 64726  
the board of county commissioners shall conduct two public 64727  
hearings on the resolution, the second hearing to be not less than 64728  
three nor more than ten days after the first. Notice of the date, 64729



time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive weeks, the second publication being not less than ten nor more than thirty days prior to the first hearing.

Except as provided in division (B)(3) of this section, the resolution shall ~~become effective on the first day of a calendar quarter following the expiration of sixty days from the date of its adoption,~~ be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code.

If a petition for a referendum is filed, the county auditor with whom the petition was filed shall, within five days, notify the board of county commissioners and the tax commissioner of the filing of the petition by certified mail. If the board of elections with which the petition was filed declares the petition invalid, the board of elections, within five days, shall notify the board of county commissioners and the tax commissioner of that declaration by certified mail. If the petition is declared to be invalid, the effective date of the tax or increased rate of tax levied by this section shall be the first day of a calendar quarter following the expiration of ~~sixty-five~~ sixty-five days from the date ~~the petition was declared invalid by commissioner receives notice from~~ the board of elections that the petition is invalid.

(B)(1) A resolution that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of tax to the electors of the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than seventy-five days after a certified copy of such resolution is transmitted to the board of elections and the election is not held in February or August of any year. Upon transmission of the resolution to the board of

elections, the board of county commissioners shall notify the tax 64762  
commissioner in writing of the levy question to be submitted to 64763  
the electors. No resolution adopted under this division shall go 64764  
into effect unless approved by a majority of those voting upon it, 64765  
and, except as provided in division (B)(3) of this section, shall 64766  
become effective on the first day of a calendar quarter following 64767  
the expiration of sixty-five days from the date ~~of notice to~~ the 64768  
tax commissioner ~~by~~ receives notice from the board of elections of 64769  
the affirmative vote. 64770

(2) A resolution that is adopted as an emergency measure 64771  
shall go into effect as provided in division (A) of this section, 64772  
but may direct the board of elections to submit the question of 64773  
repealing the tax or increase in the rate of the tax to the 64774  
electors of the county at the next general election in the county 64775  
occurring not less than seventy-five days after a certified copy 64776  
of the resolution is transmitted to the board of elections. Upon 64777  
transmission of the resolution to the board of elections, the 64778  
board of county commissioners shall notify the tax commissioner in 64779  
writing of the levy question to be submitted to the electors. The 64780  
ballot question shall be the same as that prescribed in section 64781  
5739.022 of the Revised Code. The board of elections shall notify 64782  
the board of county commissioners and the tax commissioner of the 64783  
result of the election immediately after the result has been 64784  
declared. If a majority of the qualified electors voting on the 64785  
question of repealing the tax or increase in the rate of the tax 64786  
vote for repeal of the tax or repeal of the increase, the board of 64787  
county commissioners, on the first day of a calendar quarter 64788  
following the expiration of sixty-five days after the date ~~it~~ 64789  
~~received the board and tax commissioner receive~~ notice of the 64790  
result of the election, shall, in the case of a repeal of the tax, 64791  
cease to levy the tax, or, in the case of a repeal of an increase 64792  
in the rate of the tax, cease to levy the increased rate and levy 64793  
the tax at the rate at which it was imposed immediately prior to 64794

the increase in rate. 64795

(3) If a vendor that is registered with the central 64796  
electronic registration system provided for in section 5740.05 of 64797  
the Revised Code makes a sale in this state by printed catalog and 64798  
the consumer computed the tax on the sale based on local rates 64799  
published in the catalog, any tax levied or repealed or rate 64800  
changed under this section shall not apply to such ~~sales~~ a sale 64801  
until the first day of a calendar quarter following the expiration 64802  
of one hundred twenty days from the date of notice by the tax 64803  
commissioner ~~to the vendor, or to the vendor's certified service~~ 64804  
~~provider, if the vendor has selected one~~ pursuant to division (H) 64805  
of this section. 64806

(C) If a resolution is rejected at a referendum or if a 64807  
resolution adopted after January 1, 1982, as an emergency measure 64808  
is repealed by the electors pursuant to division (B)(2) of this 64809  
section or section 5739.022 of the Revised Code, then for one year 64810  
after the date of the election at which the resolution was 64811  
rejected or repealed the board of county commissioners may not 64812  
adopt any resolution authorized by this section as an emergency 64813  
measure. 64814

(D) The board of county commissioners, at any time while a 64815  
tax levied under this section is in effect, may by resolution 64816  
reduce the rate at which the tax is levied to a lower rate 64817  
authorized by this section. Any reduction in the rate at which the 64818  
tax is levied shall be made effective on the first day of a 64819  
calendar quarter next following the ~~sixtieth~~ sixty-fifth day after 64820  
~~the certification~~ a certified copy of the resolution is delivered 64821  
to the tax commissioner. 64822

(E) The tax on every retail sale subject to a tax levied 64823  
pursuant to this section shall be in addition to the tax levied by 64824  
section 5739.02 of the Revised Code and any tax levied pursuant to 64825  
section 5739.023 or 5739.026 of the Revised Code. 64826

A county that levies a tax pursuant to this section shall 64827  
levy a tax at the same rate pursuant to section 5741.021 of the 64828  
Revised Code. 64829

The additional tax levied by the county shall be collected 64830  
pursuant to section 5739.025 of the Revised Code. If the 64831  
additional tax or some portion thereof is levied for the purpose 64832  
of criminal and administrative justice services, the revenue from 64833  
the tax, or the amount or rate apportioned to that purpose, shall 64834  
be credited to a special fund created in the county treasury for 64835  
receipt of that revenue. 64836

Any tax levied pursuant to this section is subject to the 64837  
exemptions provided in section 5739.02 of the Revised Code and in 64838  
addition shall not be applicable to sales not within the taxing 64839  
power of a county under the Constitution of the United States or 64840  
the Ohio Constitution. 64841

(F) For purposes of this section, a copy of a resolution is 64842  
"certified" when it contains a written statement attesting that 64843  
the copy is a true and exact reproduction of the original 64844  
resolution. 64845

(G) If a board of commissioners intends to adopt a resolution 64846  
to levy a tax in whole or in part for the purpose of criminal and 64847  
administrative justice services, the board shall prepare and make 64848  
available at the first public hearing at which the resolution is 64849  
considered a statement containing the following information: 64850

(1) For each of the two preceding fiscal years, the amount of 64851  
expenditures made by the county from the county general fund for 64852  
the purpose of criminal and administrative justice services; 64853

(2) For the fiscal year in which the resolution is adopted, 64854  
the board's estimate of the amount of expenditures to be made by 64855  
the county from the county general fund for the purpose of 64856  
criminal and administrative justice services; 64857

(3) For each of the two fiscal years after the fiscal year in which the resolution is adopted, the board's preliminary plan for expenditures to be made from the county general fund for the purpose of criminal and administrative justice services, both under the assumption that the tax will be imposed for that purpose and under the assumption that the tax would not be imposed for that purpose, and for expenditures to be made from the special fund created under division (E) of this section under the assumption that the tax will be imposed for that purpose.

The board shall prepare the statement and the preliminary plan using the best information available to the board at the time the statement is prepared. Neither the statement nor the preliminary plan shall be used as a basis to challenge the validity of the tax in any court of competent jurisdiction, nor shall the statement or preliminary plan limit the authority of the board to appropriate, pursuant to section 5705.38 of the Revised Code, an amount different from that specified in the preliminary plan.

(H) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) or (D) of this section, or from the board of elections of a notice of the results of an election required by division (A) or (B)(1) or (2) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

(I) As used in this section, "criminal and administrative justice services" means the exercise by the county sheriff of all powers and duties vested in that office by law; the exercise by the county prosecuting attorney of all powers and duties vested in

that office by law; the exercise by any court in the county of all 64890  
powers and duties vested in that court; the exercise by the clerk 64891  
of the court of common pleas, any clerk of a municipal court 64892  
having jurisdiction throughout the county, or the clerk of any 64893  
county court of all powers and duties vested in the clerk by law 64894  
except, in the case of the clerk of the court of common pleas, the 64895  
titling of motor vehicles or watercraft pursuant to Chapter 1548. 64896  
or 4505. of the Revised Code; the exercise by the county coroner 64897  
of all powers and duties vested in that office by law; making 64898  
payments to any other public agency or a private, nonprofit 64899  
agency, the purposes of which in the county include the diversion, 64900  
adjudication, detention, or rehabilitation of criminals or 64901  
juvenile offenders; the operation and maintenance of any detention 64902  
facility, as defined in section 2921.01 of the Revised Code; and 64903  
the construction, acquisition, equipping, or repair of such a 64904  
detention facility, including the payment of any debt charges 64905  
incurred in the issuance of securities pursuant to Chapter 133. of 64906  
the Revised Code for the purpose of constructing, acquiring, 64907  
equipping, or repairing such a facility. 64908

**Sec. 5739.022.** (A) The question of repeal of either a county 64909  
permissive tax or an increase in the rate of a county permissive 64910  
tax that was adopted as an emergency measure pursuant to section 64911  
5739.021 or 5739.026 of the Revised Code may be initiated by 64912  
filing with the board of elections of the county not less than 64913  
seventy-five days before the general election in any year a 64914  
petition requesting that an election be held on the question. The 64915  
question of repealing an increase in the rate of the county 64916  
permissive tax shall be submitted to the electors as a separate 64917  
question from the repeal of the tax in effect prior to the 64918  
increase in the rate. Any petition filed under this section shall 64919  
be signed by qualified electors residing in the county equal in 64920  
number to ten per cent of those voting for governor at the most 64921

recent gubernatorial election. 64922

After determination by it that the petition is valid, the 64923  
board of elections shall submit the question to the electors of 64924  
the county at the next general election. The election shall be 64925  
conducted, canvassed, and certified in the same manner as regular 64926  
elections for county offices in the county. The board of elections 64927  
shall notify the tax commissioner, in writing, of the election 64928  
upon determining that the petition is valid. Notice of the 64929  
election shall also be published in a newspaper of general 64930  
circulation in the district once a week for four consecutive weeks 64931  
prior to the election, stating the purpose, the time, and the 64932  
place of the election. The form of the ballot cast at the election 64933  
shall be prescribed by the secretary of state; however, the ballot 64934  
question shall read, "shall the tax (or, increase in the rate of 64935  
the tax) be retained? 64936

	Yes
	No

"

The question covered by the petition shall be submitted as a 64941  
separate proposition, but it may be printed on the same ballot 64942  
with any other proposition submitted at the same election other 64943  
than the election of officers. 64944

(B) If a majority of the qualified electors voting on the 64945  
question of repeal of either a county permissive tax or an 64946  
increase in the rate of a county permissive tax approve the 64947  
repeal, the board of elections shall notify the board of county 64948  
commissioners and the tax commissioner of the result of the 64949  
election immediately after the result has been declared. The board 64950  
of county commissioners shall, on the first day of the ~~month~~ 64951  
calendar quarter following the expiration of ~~thirty~~ sixty-five 64952

days after the date ~~it receives~~ the board and the tax commissioner 64953  
receive the notice, in the case of a repeal of a county permissive 64954  
tax, cease to levy the tax, or, in the case of a repeal of an 64955  
increase in the rate of a county permissive tax, levy the tax at 64956  
the rate at which it was imposed immediately prior to the increase 64957  
in rate and cease to levy the increased rate. 64958

(C) Upon receipt from a board of elections of a notice of the 64959  
results of an election required by division (B) of this section, 64960  
the tax commissioner shall provide notice of a tax repeal or rate 64961  
change in a manner that is reasonably accessible to all affected 64962  
vendors. The commissioner shall provide this notice at least sixty 64963  
days prior to the effective date of the rate change. The 64964  
commissioner, by rule, may establish the method by which notice 64965  
will be provided. 64966

(D) If a vendor that is registered with the central 64967  
electronic registration system provided for in section 5740.05 of 64968  
the Revised Code makes a sale in this state by printed catalog and 64969  
the consumer computed the tax on the sale based on local rates 64970  
published in the catalog, any tax repealed or rate changed under 64971  
this section shall not apply to such a sale until the first day of 64972  
a calendar quarter following the expiration of one hundred twenty 64973  
days from the date of notice by the tax commissioner pursuant to 64974  
division (C) of this section. 64975

**Sec. 5739.023.** (A)(1) For the purpose of providing additional 64976  
general revenues for a transit authority and paying the expenses 64977  
of administering such levy, any transit authority as defined in 64978  
division (U) of section 5739.01 of the Revised Code may levy a tax 64979  
upon every retail sale made in the territory of the transit 64980  
authority, except sales of watercraft and outboard motors required 64981  
to be titled pursuant to Chapter 1548. of the Revised Code and 64982  
sales of motor vehicles, at a rate of not more than one and 64983



one-half per cent at any multiple of one-fourth of one per cent 64984  
and may increase the existing rate of tax to not more than one and 64985  
one-half per cent at any multiple of one-fourth of one per cent. 64986  
The tax shall be levied and the rate increased pursuant to a 64987  
resolution of the legislative authority of the transit authority 64988  
and a certified copy of the resolution shall be delivered by the 64989  
fiscal officer to the board of elections as provided in section 64990  
3505.071 of the Revised Code and to the tax commissioner. The 64991  
resolution shall specify the number of years for which the tax is 64992  
to be in effect or that the tax is for a continuing period of 64993  
time, and the date of the election on the question of the tax 64994  
pursuant to section 306.70 of the Revised Code. The board of 64995  
elections shall certify the results of the election to the transit 64996  
authority and tax commissioner. 64997

(2) Except as provided in division (C) of this section, the 64998  
tax levied by the resolution shall become effective on the first 64999  
day of a calendar quarter next following the ~~sixtieth~~ sixty-fifth 65000  
day following the date the tax commissioner receives from the 65001  
board of elections the certification of the results of the 65002  
election on the question of the tax ~~by the board of elections~~. 65003

(B) The legislative authority may, at any time while the tax 65004  
is in effect, by resolution fix the rate of the tax at any rate 65005  
authorized by this section and not in excess of that approved by 65006  
the voters pursuant to section 306.70 of the Revised Code. Except 65007  
as provided in division (C) of this section, any change in the 65008  
rate of the tax shall be made effective on the first day of a 65009  
calendar quarter next following the ~~sixtieth~~ sixty-fifth day 65010  
following the date the tax commissioner receives the certification 65011  
of the resolution ~~to the tax commissioner~~; provided, that in any 65012  
case where bonds, or notes in anticipation of bonds, of a regional 65013  
transit authority have been issued under section 306.40 of the 65014  
Revised Code without a vote of the electors while the tax proposed 65015

to be reduced was in effect, the board of trustees of the regional 65016  
transit authority shall continue to levy and collect under 65017  
authority of the original election authorizing the tax a rate of 65018  
tax that the board of trustees reasonably estimates will produce 65019  
an amount in that year equal to the amount of principal of and 65020  
interest on those bonds as is payable in that year. 65021

(C) Upon receipt from the board of elections of the 65022  
certification of the results of the election required by division 65023  
(A) of this section, or from the legislative authority of the 65024  
certification of a resolution under division (B) of this section, 65025  
the tax commissioner shall provide notice of a tax rate change in 65026  
a manner that is reasonably accessible to all affected vendors. 65027  
The commissioner shall provide this notice at least sixty days 65028  
prior to the effective date of the rate change. The commissioner, 65029  
by rule, may establish the method by which notice will be 65030  
provided. 65031

(D) If a vendor that is registered with the central 65032  
electronic registration system provided for in section 5740.05 of 65033  
the Revised Code makes a sale in this state by printed catalog and 65034  
the consumer computed the tax on the sale based on local rates 65035  
published in the catalog, any tax levied or rate changed under 65036  
this section shall not apply to such a sale until the first day of 65037  
a calendar quarter following the expiration of one hundred twenty 65038  
days from the date of notice by the tax commissioner ~~to the~~ 65039  
~~vendor, or to the vendor's certified service provider, if the~~ 65040  
~~vendor has selected one~~ pursuant to division (C) of this section. 65041

~~(D)~~(E) The tax on every retail sale subject to a tax levied 65042  
pursuant to this section is in addition to the tax levied by 65043  
section 5739.02 of the Revised Code and any tax levied pursuant to 65044  
section 5739.021 or 5739.026 of the Revised Code. 65045

~~(E)~~(F) The additional tax levied by the transit authority 65046  
shall be collected pursuant to section 5739.025 of the Revised 65047

Code. 65048

~~(F)~~(G) Any tax levied pursuant to this section is subject to 65049  
the exemptions provided in section 5739.02 of the Revised Code and 65050  
in addition shall not be applicable to sales not within the taxing 65051  
power of a transit authority under the constitution of the United 65052  
States or the constitution of this state. 65053

~~(G)~~(H) The rate of a tax levied under this section is subject 65054  
to reduction under section 5739.028 of the Revised Code, if a 65055  
ballot question is approved by voters pursuant to that section. 65056

**Sec. 5739.025.** ~~As used in this section, "local tax" means a~~ 65057  
~~tax imposed pursuant to section 5739.021, 5739.023, 5739.026,~~ 65058  
~~5741.021, 5741.022, or 5741.023 of the Revised Code.~~ 65059

~~(A) The taxes levied by sections 5739.02 and 5741.02 of the~~ 65060  
~~Revised Code shall be collected in accordance with the following~~ 65061  
~~schedule:~~ 65062

<del>If the price</del>	<del>But not</del>	<del>The amount</del>	
<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	
<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	65065
<del>.16</del>	<del>.20</del>	<del>1¢</del>	65066
<del>.21</del>	<del>.40</del>	<del>2¢</del>	65067
<del>.41</del>	<del>.60</del>	<del>3¢</del>	65068
<del>.61</del>	<del>.80</del>	<del>4¢</del>	65069
<del>.81</del>	<del>1.00</del>	<del>5¢</del>	65070

~~If the price exceeds one dollar, the tax is five cents on~~ 65071  
~~each one dollar. If the price exceeds one dollar or a multiple~~ 65072  
~~thereof by not more than twenty cents, the amount of tax is five~~ 65073  
~~cents for each one dollar plus one cent. If the price exceeds one~~ 65074  
~~dollar or a multiple thereof by more than twenty cents, the amount~~ 65075  
~~of tax is five cents for each one dollar plus the amount of tax~~ 65076  
~~for prices twenty one cents through ninety nine cents in~~ 65077  
~~accordance with the schedule above.~~ 65078

~~(B) The combined taxes levied by sections 5739.02 and 5741.02 and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code shall be collected in accordance with the following schedules:~~

~~(1) When the total rate of local tax is one fourth per cent:~~

<del>If the price is at least</del>	<del>But not more than</del>	<del>The amount of the tax is</del>	
<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	65086
<del>.16</del>	<del>.19</del>	<del>1¢</del>	65087
<del>.20</del>	<del>.38</del>	<del>2¢</del>	65088
<del>.39</del>	<del>.57</del>	<del>3¢</del>	65089
<del>.58</del>	<del>.76</del>	<del>4¢</del>	65090
<del>.77</del>	<del>.95</del>	<del>5¢</del>	65091
<del>.96</del>	<del>1.14</del>	<del>6¢</del>	65092
<del>1.15</del>	<del>1.33</del>	<del>7¢</del>	65093
<del>1.34</del>	<del>1.52</del>	<del>8¢</del>	65094
<del>1.53</del>	<del>1.71</del>	<del>9¢</del>	65095
<del>1.72</del>	<del>1.90</del>	<del>10¢</del>	65096
<del>1.91</del>	<del>2.09</del>	<del>11¢</del>	65097
<del>2.10</del>	<del>2.28</del>	<del>12¢</del>	65098
<del>2.29</del>	<del>2.47</del>	<del>13¢</del>	65099
<del>2.48</del>	<del>2.66</del>	<del>14¢</del>	65100
<del>2.67</del>	<del>2.85</del>	<del>15¢</del>	65101
<del>2.86</del>	<del>3.04</del>	<del>16¢</del>	65102
<del>3.05</del>	<del>3.23</del>	<del>17¢</del>	65103
<del>3.24</del>	<del>3.42</del>	<del>18¢</del>	65104
<del>3.43</del>	<del>3.61</del>	<del>19¢</del>	65105
<del>3.62</del>	<del>3.80</del>	<del>20¢</del>	65106
<del>3.81</del>	<del>4.00</del>	<del>21¢</del>	65107

~~If the price exceeds four dollars, the tax is twenty one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than nineteen cents, the amount of~~

~~tax is twenty one cents for each four dollars plus one cent. If 65111  
 the price exceeds four dollars or a multiple thereof by more than 65112  
 nineteen cents, the amount of tax is twenty one cents for each 65113  
 four dollars plus the amount of tax for prices twenty cents 65114  
 through three dollars and ninety nine cents in accordance with the 65115  
 schedule above. 65116~~

~~(2) When the combined rate of local tax is one half per cent: 65117~~

<del>If the price</del>	<del>But not</del>	<del>The amount</del>	
<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	
<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	65120
<del>.16</del>	<del>.18</del>	<del>1¢</del>	65121
<del>.19</del>	<del>.36</del>	<del>2¢</del>	65122
<del>.37</del>	<del>.54</del>	<del>3¢</del>	65123
<del>.55</del>	<del>.72</del>	<del>4¢</del>	65124
<del>.73</del>	<del>.90</del>	<del>5¢</del>	65125
<del>.91</del>	<del>1.09</del>	<del>6¢</del>	65126
<del>1.10</del>	<del>1.27</del>	<del>7¢</del>	65127
<del>1.28</del>	<del>1.46</del>	<del>8¢</del>	65128
<del>1.47</del>	<del>1.64</del>	<del>9¢</del>	65129
<del>1.65</del>	<del>1.82</del>	<del>10¢</del>	65130
<del>1.83</del>	<del>2.00</del>	<del>11¢</del>	65131

~~If the price exceeds two dollars, the tax is eleven cents on 65132  
 each two dollars. If the price exceeds two dollars or a multiple 65133  
 thereof by not more than eighteen cents, the amount of tax is 65134  
 eleven cents for each two dollars plus one cent. If the price 65135  
 exceeds two dollars or a multiple thereof by more than eighteen 65136  
 cents, the amount of tax is eleven cents for each two dollars plus 65137  
 the amount of tax for prices nineteen cents through one dollar and 65138  
 ninety nine cents in accordance with the schedule above. 65139~~

~~(3) When the combined rate of local tax is three fourths per 65140  
 cent: 65141~~

<del>If the price</del>	<del>But not</del>	<del>The amount</del>	
			65142

<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	65143
<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	65144
<del>.16</del>	<del>.17</del>	<del>1¢</del>	65145
<del>.18</del>	<del>.34</del>	<del>2¢</del>	65146
<del>.35</del>	<del>.52</del>	<del>3¢</del>	65147
<del>.53</del>	<del>.69</del>	<del>4¢</del>	65148
<del>.70</del>	<del>.86</del>	<del>5¢</del>	65149
<del>.87</del>	<del>1.04</del>	<del>6¢</del>	65150
<del>1.05</del>	<del>1.21</del>	<del>7¢</del>	65151
<del>1.22</del>	<del>1.39</del>	<del>8¢</del>	65152
<del>1.40</del>	<del>1.56</del>	<del>9¢</del>	65153
<del>1.57</del>	<del>1.73</del>	<del>10¢</del>	65154
<del>1.74</del>	<del>1.91</del>	<del>11¢</del>	65155
<del>1.92</del>	<del>2.08</del>	<del>12¢</del>	65156
<del>2.09</del>	<del>2.26</del>	<del>13¢</del>	65157
<del>2.27</del>	<del>2.43</del>	<del>14¢</del>	65158
<del>2.44</del>	<del>2.60</del>	<del>15¢</del>	65159
<del>2.61</del>	<del>2.78</del>	<del>16¢</del>	65160
<del>2.79</del>	<del>2.95</del>	<del>17¢</del>	65161
<del>2.96</del>	<del>3.13</del>	<del>18¢</del>	65162
<del>3.14</del>	<del>3.30</del>	<del>19¢</del>	65163
<del>3.31</del>	<del>3.47</del>	<del>20¢</del>	65164
<del>3.48</del>	<del>3.65</del>	<del>21¢</del>	65165
<del>3.66</del>	<del>3.82</del>	<del>22¢</del>	65166
<del>3.83</del>	<del>4.00</del>	<del>23¢</del>	65167
<del>If the price exceeds four dollars, the tax is twenty three</del>			65168
<del>cents on each four dollars. If the price exceeds four dollars or a</del>			65169
<del>multiple thereof by not more than seventeen cents, the amount of</del>			65170
<del>tax is twenty three cents for each four dollars plus one cent. If</del>			65171
<del>the price exceeds four dollars or a multiple thereof by more than</del>			65172
<del>seventeen cents, the amount of tax is twenty three cents for each</del>			65173
<del>four dollars plus the amount of tax for prices eighteen cents</del>			65174
<del>through three dollars and ninety nine cents in accordance with the</del>			65175

<del>schedule above.</del>			65176
<del>(4) When the combined rate of local tax is one per cent:</del>			65177
<del>If the price</del>	<del>But not</del>	<del>The amount</del>	65178
<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	65179
<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	65180
<del>.16</del>	<del>.17</del>	<del>1¢</del>	65181
<del>.18</del>	<del>.34</del>	<del>2¢</del>	65182
<del>.35</del>	<del>.50</del>	<del>3¢</del>	65183
<del>.51</del>	<del>.67</del>	<del>4¢</del>	65184
<del>.68</del>	<del>.83</del>	<del>5¢</del>	65185
<del>.84</del>	<del>1.00</del>	<del>6¢</del>	65186
<del>If the price exceeds one dollar, the tax is six cents on each</del>			65187
<del>one dollar. If the price exceeds one dollar or a multiple thereof</del>			65188
<del>by not more than seventeen cents, the amount of tax is six cents</del>			65189
<del>for each one dollar plus one cent. If the price exceeds one dollar</del>			65190
<del>or a multiple thereof by more than seventeen cents, the amount of</del>			65191
<del>tax is six cents for each one dollar plus the amount of tax for</del>			65192
<del>prices eighteen cents through ninety nine cents in accordance with</del>			65193
<del>the schedule above.</del>			65194
<del>(5) When the combined rate of local tax is one and one fourth</del>			65195
<del>per cent:</del>			65196
<del>If the price</del>	<del>But not</del>	<del>The amount</del>	65197
<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	65198
<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	65199
<del>.16</del>	<del>.16</del>	<del>1¢</del>	65200
<del>.17</del>	<del>.32</del>	<del>2¢</del>	65201
<del>.33</del>	<del>.48</del>	<del>3¢</del>	65202
<del>.49</del>	<del>.64</del>	<del>4¢</del>	65203
<del>.65</del>	<del>.80</del>	<del>5¢</del>	65204
<del>.81</del>	<del>.96</del>	<del>6¢</del>	65205
<del>.97</del>	<del>1.12</del>	<del>7¢</del>	65206
<del>1.13</del>	<del>1.28</del>	<del>8¢</del>	65207

<del>1.29</del>	<del>1.44</del>	<del>9¢</del>	65208
<del>1.45</del>	<del>1.60</del>	<del>10¢</del>	65209
<del>1.61</del>	<del>1.76</del>	<del>11¢</del>	65210
<del>1.77</del>	<del>1.92</del>	<del>12¢</del>	65211
<del>1.93</del>	<del>2.08</del>	<del>13¢</del>	65212
<del>2.09</del>	<del>2.24</del>	<del>14¢</del>	65213
<del>2.25</del>	<del>2.40</del>	<del>15¢</del>	65214
<del>2.41</del>	<del>2.56</del>	<del>16¢</del>	65215
<del>2.57</del>	<del>2.72</del>	<del>17¢</del>	65216
<del>2.73</del>	<del>2.88</del>	<del>18¢</del>	65217
<del>2.89</del>	<del>3.04</del>	<del>19¢</del>	65218
<del>3.05</del>	<del>3.20</del>	<del>20¢</del>	65219
<del>3.21</del>	<del>3.36</del>	<del>21¢</del>	65220
<del>3.37</del>	<del>3.52</del>	<del>22¢</del>	65221
<del>3.53</del>	<del>3.68</del>	<del>23¢</del>	65222
<del>3.69</del>	<del>3.84</del>	<del>24¢</del>	65223
<del>3.85</del>	<del>4.00</del>	<del>25¢</del>	65224

~~If the price exceeds four dollars, the tax is twenty five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty five cents for each four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety nine cents in accordance with the schedule above.~~ 65225  
65226  
65227  
65228  
65229  
65230  
65231  
65232  
65233

~~(6) When the combined rate of local tax is one and one half per cent:~~ 65234  
65235

<del>If the price</del>	<del>But not</del>	<del>The amount</del>	65236
<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	65237
<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	65238
<del>.16</del>	<del>.30</del>	<del>2¢</del>	65239



<del>.31</del>	<del>.46</del>	<del>3¢</del>	65240
<del>.47</del>	<del>.61</del>	<del>4¢</del>	65241
<del>.62</del>	<del>.76</del>	<del>5¢</del>	65242
<del>.77</del>	<del>.92</del>	<del>6¢</del>	65243
<del>.93</del>	<del>1.07</del>	<del>7¢</del>	65244
<del>1.08</del>	<del>1.23</del>	<del>8¢</del>	65245
<del>1.24</del>	<del>1.38</del>	<del>9¢</del>	65246
<del>1.39</del>	<del>1.53</del>	<del>10¢</del>	65247
<del>1.54</del>	<del>1.69</del>	<del>11¢</del>	65248
<del>1.70</del>	<del>1.84</del>	<del>12¢</del>	65249
<del>1.85</del>	<del>2.00</del>	<del>13¢</del>	65250

~~If the price exceeds two dollars, the tax is thirteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is thirteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than fifteen cents, the amount of tax is thirteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety nine cents in accordance with the schedule above.~~

~~(7) When the combined rate of local tax is one and three fourths per cent:~~

<del>If the price</del>	<del>But not</del>	<del>The amount</del>	65261
<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	65262
<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	65263
<del>.16</del>	<del>.29</del>	<del>2¢</del>	65264
<del>.30</del>	<del>.44</del>	<del>3¢</del>	65265
<del>.45</del>	<del>.59</del>	<del>4¢</del>	65266
<del>.60</del>	<del>.74</del>	<del>5¢</del>	65267
<del>.75</del>	<del>.88</del>	<del>6¢</del>	65268
<del>.89</del>	<del>1.03</del>	<del>7¢</del>	65269
<del>1.04</del>	<del>1.18</del>	<del>8¢</del>	65270
<del>1.19</del>	<del>1.33</del>	<del>9¢</del>	65271

<del>1.34</del>	<del>1.48</del>	<del>10¢</del>	65272
<del>1.49</del>	<del>1.62</del>	<del>11¢</del>	65273
<del>1.63</del>	<del>1.77</del>	<del>12¢</del>	65274
<del>1.78</del>	<del>1.92</del>	<del>13¢</del>	65275
<del>1.93</del>	<del>2.07</del>	<del>14¢</del>	65276
<del>2.08</del>	<del>2.22</del>	<del>15¢</del>	65277
<del>2.23</del>	<del>2.37</del>	<del>16¢</del>	65278
<del>2.38</del>	<del>2.51</del>	<del>17¢</del>	65279
<del>2.52</del>	<del>2.66</del>	<del>18¢</del>	65280
<del>2.67</del>	<del>2.81</del>	<del>19¢</del>	65281
<del>2.82</del>	<del>2.96</del>	<del>20¢</del>	65282
<del>2.97</del>	<del>3.11</del>	<del>21¢</del>	65283
<del>3.12</del>	<del>3.25</del>	<del>22¢</del>	65284
<del>3.26</del>	<del>3.40</del>	<del>23¢</del>	65285
<del>3.41</del>	<del>3.55</del>	<del>24¢</del>	65286
<del>3.56</del>	<del>3.70</del>	<del>25¢</del>	65287
<del>3.71</del>	<del>3.85</del>	<del>26¢</del>	65288
<del>3.86</del>	<del>4.00</del>	<del>27¢</del>	65289

~~If the price exceeds four dollars, the tax is twenty seven cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than fourteen cents, the amount of tax is twenty seven cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than fourteen but by not more than twenty nine cents, the amount of tax is twenty seven cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty nine cents the amount of tax is twenty seven cents for each four dollars plus the amount of tax for prices thirty cents through three dollars and ninety nine cents in accordance with the schedule above.~~

~~(8) When the combined rate of local tax is two per cent:~~

<del>If the price</del>	<del>But not</del>	<del>The amount</del>	65303
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<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	65304
<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	65305
<del>.16</del>	<del>.28</del>	<del>2¢</del>	65306
<del>.29</del>	<del>.42</del>	<del>3¢</del>	65307
<del>.43</del>	<del>.57</del>	<del>4¢</del>	65308
<del>.58</del>	<del>.71</del>	<del>5¢</del>	65309
<del>.72</del>	<del>.85</del>	<del>6¢</del>	65310
<del>.86</del>	<del>1.00</del>	<del>7¢</del>	65311

~~If the price exceeds one dollar, the tax is seven cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than fifteen cents, the amount of tax is seven cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than fifteen cents, the amount of tax is seven cents for each one dollar plus the amount of tax for prices sixteen cents through ninety nine cents in accordance with the schedule above.~~

~~(9) When the combined rate of local tax is two and one fourth per cent:~~

<del>If the price</del>	<del>But not</del>	<del>The amount</del>	65322
<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	65323
<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	65324
<del>.16</del>	<del>.27</del>	<del>2¢</del>	65325
<del>.28</del>	<del>.41</del>	<del>3¢</del>	65326
<del>.42</del>	<del>.55</del>	<del>4¢</del>	65327
<del>.56</del>	<del>.68</del>	<del>5¢</del>	65328
<del>.69</del>	<del>.82</del>	<del>6¢</del>	65329
<del>.83</del>	<del>.96</del>	<del>7¢</del>	65330
<del>.97</del>	<del>1.10</del>	<del>8¢</del>	65331
<del>1.11</del>	<del>1.24</del>	<del>9¢</del>	65332
<del>1.25</del>	<del>1.37</del>	<del>10¢</del>	65333
<del>1.38</del>	<del>1.51</del>	<del>11¢</del>	65334
<del>1.52</del>	<del>1.65</del>	<del>12¢</del>	65335

<del>1.66</del>	<del>1.79</del>	<del>13¢</del>	65336
<del>1.80</del>	<del>1.93</del>	<del>14¢</del>	65337
<del>1.94</del>	<del>2.06</del>	<del>15¢</del>	65338
<del>2.07</del>	<del>2.20</del>	<del>16¢</del>	65339
<del>2.21</del>	<del>2.34</del>	<del>17¢</del>	65340
<del>2.35</del>	<del>2.48</del>	<del>18¢</del>	65341
<del>2.49</del>	<del>2.62</del>	<del>19¢</del>	65342
<del>2.63</del>	<del>2.75</del>	<del>20¢</del>	65343
<del>2.76</del>	<del>2.89</del>	<del>21¢</del>	65344
<del>2.90</del>	<del>3.03</del>	<del>22¢</del>	65345
<del>3.04</del>	<del>3.17</del>	<del>23¢</del>	65346
<del>3.18</del>	<del>3.31</del>	<del>24¢</del>	65347
<del>3.32</del>	<del>3.44</del>	<del>25¢</del>	65348
<del>3.45</del>	<del>3.58</del>	<del>26¢</del>	65349
<del>3.59</del>	<del>3.72</del>	<del>27¢</del>	65350
<del>3.73</del>	<del>3.86</del>	<del>28¢</del>	65351
<del>3.87</del>	<del>4.00</del>	<del>29¢</del>	65352

~~If the price exceeds four dollars, the tax is twenty nine cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than thirteen cents, the amount of tax is twenty nine cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than thirteen cents but by not more than twenty seven cents, the amount of tax is twenty nine cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty seven cents, the amount of tax is twenty nine cents for each four dollars plus the amount of tax for prices twenty eight cents through three dollars and ninety nine cents in accordance with the schedule above.~~

~~(10) When the combined rate of local tax is two and one half per cent:~~

<del>If the price</del>	<del>But not</del>	<del>The amount</del>	65367
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<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	65368
<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	65369
<del>.16</del>	<del>.26</del>	<del>2¢</del>	65370
<del>.27</del>	<del>.40</del>	<del>3¢</del>	65371
<del>.41</del>	<del>.53</del>	<del>4¢</del>	65372
<del>.54</del>	<del>.65</del>	<del>5¢</del>	65373
<del>.66</del>	<del>.80</del>	<del>6¢</del>	65374
<del>.81</del>	<del>.93</del>	<del>7¢</del>	65375
<del>.94</del>	<del>1.06</del>	<del>8¢</del>	65376
<del>1.07</del>	<del>1.20</del>	<del>9¢</del>	65377
<del>1.21</del>	<del>1.33</del>	<del>10¢</del>	65378
<del>1.34</del>	<del>1.46</del>	<del>11¢</del>	65379
<del>1.47</del>	<del>1.60</del>	<del>12¢</del>	65380
<del>1.61</del>	<del>1.73</del>	<del>13¢</del>	65381
<del>1.74</del>	<del>1.86</del>	<del>14¢</del>	65382
<del>1.87</del>	<del>2.00</del>	<del>15¢</del>	65383

~~If the price exceeds two dollars, the tax is fifteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety nine cents in accordance with the schedule above.~~

~~(11) When the combined rate of local tax is two and three fourths per cent:~~

<del>If the price</del>	<del>But not</del>	<del>The amount</del>	65394
<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	65395
<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	65396
<del>.16</del>	<del>.25</del>	<del>2¢</del>	65397
<del>.26</del>	<del>.38</del>	<del>3¢</del>	65398
<del>.39</del>	<del>.51</del>	<del>4¢</del>	65399

<del>.52</del>	<del>.64</del>	<del>5¢</del>	65400
<del>.65</del>	<del>.77</del>	<del>6¢</del>	65401
<del>.78</del>	<del>.90</del>	<del>7¢</del>	65402
<del>.91</del>	<del>1.03</del>	<del>8¢</del>	65403
<del>1.04</del>	<del>1.16</del>	<del>9¢</del>	65404
<del>1.17</del>	<del>1.29</del>	<del>10¢</del>	65405
<del>1.30</del>	<del>1.41</del>	<del>11¢</del>	65406
<del>1.42</del>	<del>1.54</del>	<del>12¢</del>	65407
<del>1.55</del>	<del>1.67</del>	<del>13¢</del>	65408
<del>1.68</del>	<del>1.80</del>	<del>14¢</del>	65409
<del>1.81</del>	<del>1.93</del>	<del>15¢</del>	65410
<del>1.94</del>	<del>2.06</del>	<del>16¢</del>	65411
<del>2.07</del>	<del>2.19</del>	<del>17¢</del>	65412
<del>2.20</del>	<del>2.32</del>	<del>18¢</del>	65413
<del>2.33</del>	<del>2.45</del>	<del>19¢</del>	65414
<del>2.46</del>	<del>2.58</del>	<del>20¢</del>	65415
<del>2.59</del>	<del>2.70</del>	<del>21¢</del>	65416
<del>2.71</del>	<del>2.83</del>	<del>22¢</del>	65417
<del>2.84</del>	<del>2.96</del>	<del>23¢</del>	65418
<del>2.97</del>	<del>3.09</del>	<del>24¢</del>	65419
<del>3.10</del>	<del>3.22</del>	<del>25¢</del>	65420
<del>3.23</del>	<del>3.35</del>	<del>26¢</del>	65421
<del>3.36</del>	<del>3.48</del>	<del>27¢</del>	65422
<del>3.49</del>	<del>3.61</del>	<del>28¢</del>	65423
<del>3.62</del>	<del>3.74</del>	<del>29¢</del>	65424
<del>3.75</del>	<del>3.87</del>	<del>30¢</del>	65425
<del>3.88</del>	<del>4.00</del>	<del>31¢</del>	65426

~~If the price exceeds four dollars, the tax is thirty one~~ 65427  
~~cents on each four dollars. If the price exceeds four dollars or a~~ 65428  
~~multiple thereof by not more than twelve cents, the amount of tax~~ 65429  
~~is thirty one cents for each four dollars plus one cent. If the~~ 65430  
~~price exceeds four dollars or a multiple thereof by more than~~ 65431  
~~twelve cents but not more than twenty five cents, the amount of~~ 65432

~~tax is thirty one cents for each four dollars plus two cents. If  
the price exceeds four dollars or a multiple thereof by more than  
twenty five cents, the amount of tax is thirty one cents for each  
four dollars plus the amount of tax for prices twenty six cents  
through three dollars and ninety nine cents in accordance with the  
schedule above.~~

~~(12) When the combined rate of local tax is three per cent:~~

<del>If the price</del>	<del>But not</del>	<del>The amount</del>	
<del>is at least</del>	<del>more than</del>	<del>of the tax is</del>	
<del>\$.01</del>	<del>\$.15</del>	<del>No tax</del>	65442
<del>.16</del>	<del>.25</del>	<del>2¢</del>	65443
<del>.26</del>	<del>.37</del>	<del>3¢</del>	65444
<del>.38</del>	<del>.50</del>	<del>4¢</del>	65445
<del>.51</del>	<del>.62</del>	<del>5¢</del>	65446
<del>.63</del>	<del>.75</del>	<del>6¢</del>	65447
<del>.76</del>	<del>.87</del>	<del>7¢</del>	65448
<del>.88</del>	<del>1.00</del>	<del>8¢</del>	65449

~~If the price exceeds one dollar, the tax is eight cents on  
each one dollar. If the price exceeds one dollar or a multiple  
thereof by not more than twelve cents, the amount of tax is eight  
cents for each one dollar plus one cent. If the price exceeds one  
dollar or a multiple thereof by more than twelve cents but not  
more than twenty five cents, the amount of tax is eight cents for  
each one dollar plus two cents. If the price exceeds one dollar or  
a multiple thereof by more than twenty five cents, the amount of  
tax is eight cents for each one dollar plus the amount of tax for  
prices twenty six cents through ninety nine cents in accordance  
with the schedule above.~~

~~(C) In lieu of collecting the tax pursuant to the schedules  
set forth in divisions (A) and (B) of this section, a (A) A vendor  
may shall compute the tax on each sale as follows:~~

~~(1) On sales of fifteen cents or less, no tax shall apply.~~

~~(2) On sales in excess of fifteen cents, multiply by~~ 65465  
~~multiplying~~ the price by the aggregate rate of taxes in effect 65466  
under sections ~~5739.01~~ 5739.02 and 5741.02, and sections 5739.021, 65467  
5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the 65468  
Revised Code. The computation shall be carried out to ~~six~~ three 65469  
decimal places. If the result is a fractional amount of a cent, 65470  
the calculated tax shall be ~~increased to the next highest cent and~~ 65471  
~~that amount shall be collected by the vendor~~ rounded to a whole 65472  
cent using a method that rounds up to the next cent whenever the 65473  
third decimal place is greater than four. A vendor may elect to 65474  
compute the tax due on a transaction on an item or an invoice 65475  
basis. 65476

~~(D)(B)~~ In auditing a vendor, ~~the tax commissioner shall~~ 65477  
~~consider the method prescribed by this section that was used by~~ 65478  
~~the vendor in determining and collecting the tax due under this~~ 65479  
~~chapter on taxable transactions. If~~ if the vendor correctly 65480  
collects and remits the tax due under this chapter in accordance 65481  
~~with the schedules in divisions (A) and (B) of this section or in~~ 65482  
~~accordance~~ with the computation prescribed in division ~~(C)~~ (A) of 65483  
this section, the commissioner shall not assess any additional tax 65484  
on those transactions. 65485

(E)(1) With respect to a sale of a fractional ownership 65486  
program aircraft used primarily in a fractional aircraft ownership 65487  
program, including all accessories attached to such aircraft, the 65488  
tax shall apply at the combined rates in the schedules set forth 65489  
in divisions (A) and (B) of this section, provided that the tax 65490  
commissioner shall modify those schedules so that the maximum tax 65491  
on each program aircraft is eight hundred dollars. In the case of 65492  
a sale of a fractional interest that is less than one hundred per 65493  
cent of the program aircraft, the tax charged on the transaction 65494  
shall be eight hundred dollars multiplied by a fraction, the 65495  
numerator of which is the percentage of ownership or possession in 65496



the aircraft being purchased in the transaction, and the 65497  
denominator of which is one hundred per cent. 65498

(2) Notwithstanding any other provision of law to the 65499  
contrary, the tax calculated under division (E)(1) of this section 65500  
and paid with respect to the sale of a fractional ownership 65501  
program aircraft used primarily in a fractional aircraft ownership 65502  
program shall be credited to the general revenue fund. 65503

**Sec. 5739.026.** (A) A board of county commissioners may levy a 65504  
tax of one-fourth or one-half of one per cent on every retail sale 65505  
in the county, except sales of watercraft and outboard motors 65506  
required to be titled pursuant to Chapter 1548. of the Revised 65507  
Code and sales of motor vehicles, and may increase an existing 65508  
rate of one-fourth of one per cent to one-half of one per cent, to 65509  
pay the expenses of administering the tax and, except as provided 65510  
in division (A)(6) of this section, for any one or more of the 65511  
following purposes provided that the aggregate levy for all such 65512  
purposes does not exceed one-half of one per cent: 65513

(1) To provide additional revenues for the payment of bonds 65514  
or notes issued in anticipation of bonds issued by a convention 65515  
facilities authority established by the board of county 65516  
commissioners under Chapter 351. of the Revised Code and to 65517  
provide additional operating revenues for the convention 65518  
facilities authority; 65519

(2) To provide additional revenues for a transit authority 65520  
operating in the county; 65521

(3) To provide additional revenue for the county's general 65522  
fund; 65523

(4) To provide additional revenue for permanent improvements 65524  
within the county to be distributed by the community improvements 65525  
board in accordance with section 307.283 and to pay principal, 65526

interest, and premium on bonds issued under section 307.284 of the Revised Code; 65527  
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(5) To provide additional revenue for the acquisition, construction, equipping, or repair of any specific permanent improvement or any class or group of permanent improvements, which improvement or class or group of improvements shall be enumerated in the resolution required by division (D) of this section, and to pay principal, interest, premium, and other costs associated with the issuance of bonds or notes in anticipation of bonds issued pursuant to Chapter 133. of the Revised Code for the acquisition, construction, equipping, or repair of the specific permanent improvement or class or group of permanent improvements; 65529  
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(6) To provide revenue for the implementation and operation of a 9-1-1 system in the county. If the tax is levied or the rate increased exclusively for such purpose, the tax shall not be levied or the rate increased for more than five years. At the end of the last year the tax is levied or the rate increased, any balance remaining in the special fund established for such purpose shall remain in that fund and be used exclusively for such purpose until the fund is completely expended, and, notwithstanding section 5705.16 of the Revised Code, the board of county commissioners shall not petition for the transfer of money from such special fund, and the tax commissioner shall not approve such a petition. 65539  
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If the tax is levied or the rate increased for such purpose for more than five years, the board of county commissioners also shall levy the tax or increase the rate of the tax for one or more of the purposes described in divisions (A)(1) to (5) of this section and shall prescribe the method for allocating the revenues from the tax each year in the manner required by division (C) of this section. 65551  
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(7) To provide additional revenue for the operation or 65558

maintenance of a detention facility, as that term is defined under 65559  
division (F) of section 2921.01 of the Revised Code; 65560

(8) To provide revenue to finance the construction or 65561  
renovation of a sports facility, but only if the tax is levied for 65562  
that purpose in the manner prescribed by section 5739.028 of the 65563  
Revised Code. 65564

As used in division (A)(8) of this section: 65565

(a) "Sports facility" means a facility intended to house 65566  
major league professional athletic teams. 65567

(b) "Constructing" or "construction" includes providing 65568  
fixtures, furnishings, and equipment. 65569

(9) To provide additional revenue for the acquisition of 65570  
agricultural easements, as defined in section 5301.67 of the 65571  
Revised Code; to pay principal, interest, and premium on bonds 65572  
issued under section 133.60 of the Revised Code; and for the 65573  
supervision and enforcement of agricultural easements held by the 65574  
county. 65575

Pursuant to section 755.171 of the Revised Code, a board of 65576  
county commissioners may pledge and contribute revenue from a tax 65577  
levied for the purpose of division (A)(5) of this section to the 65578  
payment of debt charges on bonds issued under section 755.17 of 65579  
the Revised Code. 65580

The rate of tax shall be a multiple of one-fourth of one per 65581  
cent, unless a portion of the rate of an existing tax levied under 65582  
section 5739.023 of the Revised Code has been reduced, and the 65583  
rate of tax levied under this section has been increased, pursuant 65584  
to section 5739.028 of the Revised Code, in which case the 65585  
aggregate of the rates of tax levied under this section and 65586  
section 5739.023 of the Revised Code shall be a multiple of 65587  
one-fourth of one per cent. The tax shall be levied and the rate 65588  
increased pursuant to a resolution adopted by a majority of the 65589

members of the board. The board shall deliver a certified copy of 65590  
the resolution to the tax commissioner, not later than the 65591  
sixty-fifth day prior to the date on which the tax is to become 65592  
effective, which shall be the first day of a calendar quarter. 65593

Prior to the adoption of any resolution to levy the tax or to 65594  
increase the rate of tax exclusively for the purpose set forth in 65595  
division (A)(3) of this section, the board of county commissioners 65596  
shall conduct two public hearings on the resolution, the second 65597  
hearing to be no fewer than three nor more than ten days after the 65598  
first. Notice of the date, time, and place of the hearings shall 65599  
be given by publication in a newspaper of general circulation in 65600  
the county once a week on the same day of the week for two 65601  
consecutive weeks, the second publication being no fewer than ten 65602  
nor more than thirty days prior to the first hearing. Except as 65603  
provided in division (E) of this section, the resolution shall 65604  
~~become effective on the first day of a calendar quarter following~~ 65605  
~~the expiration of sixty days from the date of its adoption, be~~ 65606  
subject to a referendum as provided in sections 305.31 to 305.41 65607  
of the Revised Code. If the resolution is adopted as an emergency 65608  
measure necessary for the immediate preservation of the public 65609  
peace, health, or safety, it must receive an affirmative vote of 65610  
all of the members of the board of county commissioners and shall 65611  
state the reasons for the necessity. 65612

If the tax is for more than one of the purposes set forth in 65613  
divisions (A)(1) to (7) and (9) of this section or is exclusively 65614  
for one of the purposes set forth in division (A)(1), (2), (4), 65615  
(5), (6), (7), or (9) of this section, the resolution shall not go 65616  
into effect unless it is approved by a majority of the electors 65617  
voting on the question of the tax. 65618

(B) The board of county commissioners shall adopt a 65619  
resolution under section 351.02 of the Revised Code creating the 65620  
convention facilities authority, or under section 307.283 of the 65621

Revised Code creating the community improvements board, before 65622  
adopting a resolution levying a tax for the purpose of a 65623  
convention facilities authority under division (A)(1) of this 65624  
section or for the purpose of a community improvements board under 65625  
division (A)(4) of this section. 65626

(C)(1) If the tax is to be used for more than one of the 65627  
purposes set forth in divisions (A)(1) to (7) and (9) of this 65628  
section, the board of county commissioners shall establish the 65629  
method that will be used to determine the amount or proportion of 65630  
the tax revenue received by the county during each year that will 65631  
be distributed for each of those purposes, including, if 65632  
applicable, provisions governing the reallocation of a convention 65633  
facilities authority's allocation if the authority is dissolved 65634  
while the tax is in effect. The allocation method may provide that 65635  
different proportions or amounts of the tax shall be distributed 65636  
among the purposes in different years, but it shall clearly 65637  
describe the method that will be used for each year. Except as 65638  
otherwise provided in division (C)(2) of this section, the 65639  
allocation method established by the board is not subject to 65640  
amendment during the life of the tax. 65641

(2) Subsequent to holding a public hearing on the proposed 65642  
amendment, the board of county commissioners may amend the 65643  
allocation method established under division (C)(1) of this 65644  
section for any year, if the amendment is approved by the 65645  
governing board of each entity whose allocation for the year would 65646  
be reduced by the proposed amendment. In the case of a tax that is 65647  
levied for a continuing period of time, the board may not so amend 65648  
the allocation method for any year before the sixth year that the 65649  
tax is in effect. 65650

(a) If the additional revenues provided to the convention 65651  
facilities authority are pledged by the authority for the payment 65652  
of convention facilities authority revenue bonds for as long as 65653

such bonds are outstanding, no reduction of the authority's 65654  
allocation of the tax shall be made for any year except to the 65655  
extent that the reduced authority allocation, when combined with 65656  
the authority's other revenues pledged for that purpose, is 65657  
sufficient to meet the debt service requirements for that year on 65658  
such bonds. 65659

(b) If the additional revenues provided to the county are 65660  
pledged by the county for the payment of bonds or notes described 65661  
in division (A)(4) or (5) of this section, for as long as such 65662  
bonds or notes are outstanding, no reduction of the county's or 65663  
the community improvements board's allocation of the tax shall be 65664  
made for any year, except to the extent that the reduced county or 65665  
community improvements board allocation is sufficient to meet the 65666  
debt service requirements for that year on such bonds or notes. 65667

(c) If the additional revenues provided to the transit 65668  
authority are pledged by the authority for the payment of revenue 65669  
bonds issued under section 306.37 of the Revised Code, for as long 65670  
as such bonds are outstanding, no reduction of the authority's 65671  
allocation of tax shall be made for any year, except to the extent 65672  
that the authority's reduced allocation, when combined with the 65673  
authority's other revenues pledged for that purpose, is sufficient 65674  
to meet the debt service requirements for that year on such bonds. 65675

(d) If the additional revenues provided to the county are 65676  
pledged by the county for the payment of bonds or notes issued 65677  
under section 133.60 of the Revised Code, for so long as the bonds 65678  
or notes are outstanding, no reduction of the county's allocation 65679  
of the tax shall be made for any year, except to the extent that 65680  
the reduced county allocation is sufficient to meet the debt 65681  
service requirements for that year on the bonds or notes. 65682

(D)(1) The resolution levying the tax or increasing the rate 65683  
of tax shall state the rate of the tax or the rate of the 65684  
increase; the purpose or purposes for which it is to be levied; 65685

the number of years for which it is to be levied or that it is for 65686  
a continuing period of time; the allocation method required by 65687  
division (C) of this section; and if required to be submitted to 65688  
the electors of the county under division (A) of this section, the 65689  
date of the election at which the proposal shall be submitted to 65690  
the electors of the county, which shall be not less than 65691  
seventy-five days after the certification of a copy of the 65692  
resolution to the board of elections and, if the tax is to be 65693  
levied exclusively for the purpose set forth in division (A)(3) of 65694  
this section, shall not occur in February or August of any year. 65695  
Upon certification of the resolution to the board of elections, 65696  
the board of county commissioners shall notify the tax 65697  
commissioner in writing of the levy question to be submitted to 65698  
the electors. If approved by a majority of the electors, the tax 65699  
shall become effective on the first day of a calendar quarter next 65700  
following the ~~sixtieth~~ sixty-fifth day following the ~~certification~~ 65701  
~~of the results of the election to~~ date the board of county 65702  
commissioners and ~~the~~ tax commissioner ~~by~~ receive from the board 65703  
of elections the certification of the results of the election, 65704  
except as provided in division (E) of this section. 65705

(2)(a) A resolution specifying that the tax is to be used 65706  
exclusively for the purpose set forth in division (A)(3) of this 65707  
section that is not adopted as an emergency measure may direct the 65708  
board of elections to submit the question of levying the tax or 65709  
increasing the rate of the tax to the electors of the county at a 65710  
special election held on the date specified by the board of county 65711  
commissioners in the resolution, provided that the election occurs 65712  
not less than seventy-five days after the resolution is certified 65713  
to the board of elections and the election is not held in February 65714  
or August of any year. Upon certification of the resolution to the 65715  
board of elections, the board of county commissioners shall notify 65716  
the tax commissioner in writing of the levy question to be 65717  
submitted to the electors. No resolution adopted under division 65718

(D)(2)(a) of this section shall go into effect unless approved by 65719  
a majority of those voting upon it and, except as provided in 65720  
division (E) of this section, not until the first day of a 65721  
calendar quarter following the expiration of sixty-five days from 65722  
the date ~~of the notice to~~ the tax commissioner ~~by~~ receives notice 65723  
from the board of elections of the affirmative vote. 65724

(b) A resolution specifying that the tax is to be used 65725  
exclusively for the purpose set forth in division (A)(3) of this 65726  
section that is adopted as an emergency measure shall become 65727  
effective as provided in division (A) of this section, but may 65728  
direct the board of elections to submit the question of repealing 65729  
the tax or increase in the rate of the tax to the electors of the 65730  
county at the next general election in the county occurring not 65731  
less than seventy-five days after the resolution is certified to 65732  
the board of elections. Upon certification of the resolution to 65733  
the board of elections, the board of county commissioners shall 65734  
notify the tax commissioner in writing of the levy question to be 65735  
submitted to the electors. The ballot question shall be the same 65736  
as that prescribed in section 5739.022 of the Revised Code. The 65737  
board of elections shall notify the board of county commissioners 65738  
and the tax commissioner of the result of the election immediately 65739  
after the result has been declared. If a majority of the qualified 65740  
electors voting on the question of repealing the tax or increase 65741  
in the rate of the tax vote for repeal of the tax or repeal of the 65742  
increase, the board of county commissioners, on the first day of a 65743  
calendar quarter following the expiration of sixty-five days after 65744  
the date ~~it~~ the board and tax commissioner received notice of the 65745  
result of the election, shall, in the case of a repeal of the tax, 65746  
cease to levy the tax, or, in the case of a repeal of an increase 65747  
in the rate of the tax, cease to levy the increased rate and levy 65748  
the tax at the rate at which it was imposed immediately prior to 65749  
the increase in rate. 65750



(c) A board of county commissioners, by resolution, may 65751  
reduce the rate of a tax levied exclusively for the purpose set 65752  
forth in division (A)(3) of this section to a lower rate 65753  
authorized by this section. Any such reduction shall be made 65754  
effective on the first day of the calendar quarter ~~specified in~~ 65755  
~~the resolution, but not sooner than the first day of the month~~ 65756  
next following the ~~sixtieth~~ sixty-fifth day after the ~~resolution~~ 65757  
~~is certified to the tax commissioner~~ receives a certified copy of 65758  
the resolution from the board. 65759

(E) If a vendor that is registered with the central 65760  
electronic registration system provided for in section 5740.05 of 65761  
the Revised Code makes a sale in this state by printed catalog and 65762  
the consumer computed the tax on the sale based on local rates 65763  
published in the catalog, any tax levied or repealed or rate 65764  
changed under this section shall not apply to such a sale until 65765  
the first day of a calendar quarter following the expiration of 65766  
one hundred twenty days from the date of notice by the tax 65767  
commissioner ~~to the vendor, or to the vendor's certified service~~ 65768  
~~provider, if the vendor has selected one~~ pursuant to division (G) 65769  
of this section. 65770

(F) The tax levied pursuant to this section shall be in 65771  
addition to the tax levied by section 5739.02 of the Revised Code 65772  
and any tax levied pursuant to section 5739.021 or 5739.023 of the 65773  
Revised Code. 65774

A county that levies a tax pursuant to this section shall 65775  
levy a tax at the same rate pursuant to section 5741.023 of the 65776  
Revised Code. 65777

The additional tax levied by the county shall be collected 65778  
pursuant to section 5739.025 of the Revised Code. 65779

Any tax levied pursuant to this section is subject to the 65780  
exemptions provided in section 5739.02 of the Revised Code and in 65781

addition shall not be applicable to sales not within the taxing 65782  
power of a county under the Constitution of the United States or 65783  
the Ohio Constitution. 65784

(G) Upon receipt from a board of county commissioners of a 65785  
certified copy of a resolution required by division (A) of this 65786  
section, or from the board of elections a notice of the results of 65787  
an election required by division (D)(1), (2)(a), (b), or (c) of 65788  
this section, the tax commissioner shall provide notice of a tax 65789  
rate change in a manner that is reasonably accessible to all 65790  
affected vendors. The commissioner shall provide this notice at 65791  
least sixty days prior to the effective date of the rate change. 65792  
The commissioner, by rule, may establish the method by which 65793  
notice will be provided. 65794

**Sec. 5739.03.** Except as provided in section 5739.05 of the 65795  
Revised Code, the tax imposed by or pursuant to section 5739.02, 65796  
5739.021, 5739.023, or 5739.026 of the Revised Code shall be paid 65797  
by the consumer to the vendor, and each vendor shall collect from 65798  
the consumer, as a trustee for the state of Ohio, the full and 65799  
exact amount of the tax payable on each taxable sale, in the 65800  
manner and at the times provided as follows: 65801

(A) If the price is, at or prior to the provision of the 65802  
service or the delivery of possession of the thing sold to the 65803  
consumer, paid in currency passed from hand to hand by the 65804  
consumer or the consumer's agent to the vendor or the vendor's 65805  
agent, the vendor or the vendor's agent shall collect the tax with 65806  
and at the same time as the price; 65807

(B) If the price is otherwise paid or to be paid, the vendor 65808  
or the vendor's agent shall, at or prior to the provision of the 65809  
service or the delivery of possession of the thing sold to the 65810  
consumer, charge the tax imposed by or pursuant to section 65811  
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to 65812

the account of the consumer, which amount shall be collected by 65813  
the vendor from the consumer in addition to the price. Such sale 65814  
shall be reported on and the amount of the tax applicable thereto 65815  
shall be remitted with the return for the period in which the sale 65816  
is made, and the amount of the tax shall become a legal charge in 65817  
favor of the vendor and against the consumer. 65818

If any sale is claimed to be exempt under division (E) of 65819  
section 5739.01 of the Revised Code or under section 5739.02 of 65820  
the Revised Code, with the exception of divisions (B)(1) to (11) 65821  
or (28) of section 5739.02 of the Revised Code, the consumer must 65822  
furnish to the vendor, and the vendor must obtain from the 65823  
consumer, a certificate specifying the reason that the sale is not 65824  
legally subject to the tax. If the transaction is claimed to be 65825  
exempt under division (B)(13) of section 5739.02 of the Revised 65826  
Code, the exemption certificate shall be signed by both the 65827  
contractor and the contractee and such contractee shall be deemed 65828  
to be the consumer of all items purchased under such claim of 65829  
exemption in the event it is subsequently determined that the 65830  
exemption is not properly claimed. The certificate shall be in 65831  
such form as the tax commissioner by regulation prescribes. If no 65832  
certificate is furnished or obtained within the period for filing 65833  
the return for the period in which such sale is consummated, it 65834  
shall be presumed that the tax applies. ~~The~~ Failure to have so 65835  
furnished, or to have so obtained, a certificate shall not prevent 65836  
a vendor or consumer from establishing that the sale is not 65837  
~~subject~~ subject to the tax within ~~sixty~~ one hundred twenty days of 65838  
the giving of notice by the commissioner of intention to levy an 65839  
~~assessment~~ assessment, in which event the tax shall not apply. 65840

Certificates need not be obtained nor furnished where the 65841  
identity of the consumer is such that the transaction is never 65842  
subject to the tax imposed or where the item of tangible personal 65843  
property sold or the service provided is never subject to the tax 65844

imposed, regardless of use, or when the sale is in interstate 65845  
commerce. 65846

(C) As used in this division, "contractee" means a person who 65847  
seeks to enter or enters into a contract or agreement with a 65848  
contractor or vendor for the construction of real property or for 65849  
the sale and installation onto real property of tangible personal 65850  
property. 65851

Any contractor or vendor may request from any contractee a 65852  
certification of what portion of the property to be transferred 65853  
under such contract or agreement is to be incorporated into the 65854  
realty and what portion will retain its status as tangible 65855  
personal property after installation is completed. The contractor 65856  
or vendor shall request the certification by certified mail 65857  
delivered to the contractee, return receipt requested. Upon 65858  
receipt of such request and prior to entering into the contract or 65859  
agreement, the contractee shall furnish to the contractor or 65860  
vendor a certification sufficiently detailed to enable the 65861  
contractor or vendor to ascertain the resulting classification of 65862  
all materials purchased or fabricated by the contractor or vendor 65863  
and transferred to the contractee. This requirement applies to a 65864  
contractee regardless of whether the contractee holds a direct 65865  
payment permit under section 5739.031 of the Revised Code or 65866  
furnishes to the contractor or vendor an exemption certificate as 65867  
provided under this section. 65868

For the purposes of the taxes levied by this chapter and 65869  
Chapter 5741. of the Revised Code, the contractor or vendor may in 65870  
good faith rely on the contractee's certification. Notwithstanding 65871  
division (B) of section 5739.01 of the Revised Code, if the tax 65872  
commissioner determines that certain property certified by the 65873  
contractee as tangible personal property pursuant to this division 65874  
is, in fact, real property, the contractee shall be considered to 65875  
be the consumer of all materials so incorporated into that real 65876

property and shall be liable for the applicable tax, and the 65877  
contractor or vendor shall be excused from any liability on those 65878  
materials. 65879

If a contractee fails to provide such certification upon the 65880  
request of the contractor or vendor, the contractor or vendor 65881  
shall comply with the provisions of this chapter and Chapter 5741. 65882  
of the Revised Code without the certification. If the tax 65883  
commissioner determines that such compliance has been performed in 65884  
good faith and that certain property treated as tangible personal 65885  
property by the contractor or vendor is, in fact, real property, 65886  
the contractee shall be considered to be the consumer of all 65887  
materials so incorporated into that real property and shall be 65888  
liable for the applicable tax and the construction contractor or 65889  
vendor shall be excused from any liability on those materials. 65890

This division does not apply to any contract or agreement 65891  
where the tax commissioner determines as a fact that a 65892  
certification under this division was made solely on the decision 65893  
or advice of the contractor or vendor. 65894

(D) Notwithstanding division (B) of section 5739.01 of the 65895  
Revised Code, whenever the total rate of tax imposed under this 65896  
chapter is increased after the date after a construction contract 65897  
is entered into, the contractee shall reimburse the construction 65898  
contractor for any additional tax paid on tangible property 65899  
consumed or services received pursuant to the contract. 65900

(E) A vendor who files a petition for reassessment contesting 65901  
the assessment of tax on sales for which the vendor obtained no 65902  
valid exemption certificates and for which the vendor failed to 65903  
establish that the sales were properly not subject to the tax 65904  
during the one-hundred-twenty-day period allowed under division 65905  
(B) of this section, may present to the tax commissioner 65906  
additional evidence to prove that the sales were properly subject 65907  
to a claim of exception or exemption. The vendor shall file such 65908

evidence within ninety days of the receipt by the vendor of the notice of assessment, except that, upon application and for reasonable cause, the period for submitting such evidence shall be extended thirty days.

The commissioner shall consider such additional evidence in reaching the final determination on the assessment and petition for reassessment.

(F) Whenever a vendor refunds to the consumer the full price of an item of tangible personal property on which the tax imposed under this chapter has been paid, the vendor shall also refund the full amount of the tax paid.

**Sec. 5739.032.** (A) If the total amount of tax required to be paid by a permit holder under section 5739.031 of the Revised Code for any calendar year ~~indicated in the following schedule~~ equals or exceeds ~~the amounts prescribed for that year in the schedule~~ seventy-five thousand dollars, the permit holder shall remit each monthly tax payment in the second ensuing and each succeeding year by electronic funds transfer as prescribed by division (B) of this section.

Year	1992	<del>1993 through 1999</del>	<del>2000 and thereafter</del>
Tax payment	\$1,200,000	\$600,000	\$60,000

If a permit holder's tax payment for each of two consecutive years ~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand dollars, the permit holder is relieved of the requirement to remit taxes by electronic funds transfer for the year that next follows the second of the consecutive years in which the tax payment is less than ~~sixty thousand dollars~~ that amount, and is relieved of that requirement for each succeeding year, unless the tax payment in a subsequent year equals or exceeds ~~sixty~~ seventy-five thousand dollars.

The tax commissioner shall notify each permit holder required

to remit taxes by electronic funds transfer of the permit holder's 65940  
obligation to do so, shall maintain an updated list of those 65941  
permit holders, and shall timely certify the list and any 65942  
additions thereto or deletions therefrom to the treasurer of 65943  
state. Failure by the tax commissioner to notify a permit holder 65944  
subject to this section to remit taxes by electronic funds 65945  
transfer does not relieve the permit holder of its obligation to 65946  
remit taxes by electronic funds transfer. 65947

(B) Permit holders required by division (A) of this section 65948  
to remit payments by electronic funds transfer shall remit such 65949  
payments to the treasurer of state in the manner prescribed by 65950  
this section and rules adopted by the treasurer of state under 65951  
section 113.061 of the Revised Code, and on or before the 65952  
following dates: 65953

(1) On or before each of the ~~eleventh, eighteenth,~~ fifteenth 65954  
and twenty-fifth days of each month, a permit holder shall remit 65955  
an amount equal to ~~one-fourth~~ thirty-seven and one-half per cent 65956  
of the permit holder's total tax liability for the same month in 65957  
the preceding calendar year. 65958

(2) On or before the twenty-third day of each month, a permit 65959  
holder shall report the taxes due for the previous month and shall 65960  
remit that amount, less any amounts paid for that month as 65961  
required by division (B)(1) of this section. 65962

The payment of taxes by electronic funds transfer does not 65963  
affect a permit holder's obligation to file the monthly return as 65964  
required under section 5739.031 of the Revised Code. 65965

(C) A permit holder required by this section to remit taxes 65966  
by electronic funds transfer may apply to the treasurer of state 65967  
in the manner prescribed by the treasurer of state to be excused 65968  
from that requirement. The treasurer of state may excuse the 65969  
permit holder from remittance by electronic funds transfer for 65970

good cause shown for the period of time requested by the permit holder or for a portion of that period. The treasurer of state shall notify the tax commissioner and the permit holder of the treasurer of state's decision as soon as is practicable.

(D)(1) If a permit holder that is required to remit payments under division (B) of this section fails to make a payment, the commissioner may impose an additional charge not to exceed five per cent of that unpaid amount.

(2) If a permit holder required by this section to remit taxes by electronic funds transfer remits those taxes by some means other than by electronic funds transfer as prescribed by this section and the rules adopted by the treasurer of state, and the tax commissioner determines that such failure was not due to reasonable cause or was due to willful neglect, the commissioner may impose an additional charge not to exceed the lesser of five per cent of the amount of the taxes required to be paid by electronic funds transfer or five thousand dollars.

(3) Any additional charge imposed under division (D)(1) or (2) of this section is in addition to any other penalty or charge imposed under this chapter, and shall be considered as revenue arising from taxes imposed under this chapter. An additional charge may be collected by assessment in the manner prescribed by section 5739.13 of the Revised Code. The tax commissioner may waive all or a portion of such a charge and may adopt rules governing such waiver.

No additional charge shall be imposed under division (D)(2) of this section against a permit holder that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be imposed upon the remittance of any subsequent tax payment that the permit holder remits by some means other than electronic funds



transfer. 66003

**Sec. 5739.033.** The amount of tax due pursuant to sections 66004  
5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is 66005  
the sum of the taxes imposed pursuant to those sections at the 66006  
situs of the sale as determined under this section or, if 66007  
applicable, under division (C) of section 5739.031 of the Revised 66008  
Code. 66009

(A) Except as otherwise provided in this section, division 66010  
(C) of section 5739.031, and section 5739.034 of the Revised Code, 66011  
the situs of all sales is the vendor's place of business. 66012

(1) If the consumer or the consumer's agent takes possession 66013  
of the tangible personal property at a place of business of the 66014  
vendor where the purchase contract or agreement was made, the 66015  
situs of the sale is that place of business. 66016

(2) If the consumer or the consumer's agent takes possession 66017  
of the tangible personal property other than at a place of 66018  
business of the vendor, or takes possession at a warehouse or 66019  
similar facility of the vendor, the situs of the sale is the 66020  
vendor's place of business where the purchase contract or 66021  
agreement was made or the purchase order was received. 66022

(3) If the vendor provides a service specified in division 66023  
(B)(3)(a), (b), (c), (d), (n), ~~or~~ (o), (r), (s), or (t) of section 66024  
5739.01 or makes a sale specified in division (B)(8) of section 66025  
5739.01 of the Revised Code, the situs of the sale is the vendor's 66026  
place of business where the service is performed or the contract 66027  
or agreement for the service was made or the purchase order was 66028  
received. 66029

(B) If the vendor is a transient vendor as specified in 66030  
division (B) of section 5739.17 of the Revised Code, the situs of 66031  
the sale is the vendor's temporary place of business or, if the 66032

transient vendor is the lessor of titled motor vehicles, titled 66033  
watercraft, or titled outboard motors, at the location where the 66034  
lessee keeps the leased property. 66035

(C) If the vendor makes sales of tangible personal property 66036  
from a stock of goods carried in a motor vehicle, from which the 66037  
purchaser makes selection and takes possession, or from which the 66038  
vendor sells tangible personal property the quantity of which has 66039  
not been determined prior to the time the purchaser takes 66040  
possession, the situs of the sale is the location of the motor 66041  
vehicle when the sale is made. 66042

(D) If the vendor is a delivery vendor as specified in 66043  
division (D) of section 5739.17 of the Revised Code, the situs of 66044  
the sale is the place where the tangible personal property is 66045  
delivered, where the leased property is used, or where the service 66046  
is performed or received. 66047

(E) If the vendor provides a service specified in division 66048  
(B)(3)(e), (g), (h), (j), (k), (l), ~~or (m)~~, (q), or (u) of section 66049  
5739.01 of the Revised Code, the situs of the sale is the location 66050  
of the consumer where the service is performed or received. 66051

(F) ~~Except as provided in division (I) or (J) of this~~ 66052  
~~section.~~ 66053

(1) If the vendor provides a service specified in division 66054  
(B)(3)(f) or (i) of section 5739.01 of the Revised Code, the situs 66055  
of the sale is the location of the telephone number or account as 66056  
reflected in the records of the vendor. 66057

(2) In the case of a telecommunications service, if the 66058  
telephone number or account is located outside this state, the 66059  
situs of the sale is the location in this state from which the 66060  
service originated. 66061

(G) If the vendor provides lodging to transient guests as 66062  
specified in division (B)(2) of section 5739.01 of the Revised 66063

Code, the situs of the sale is the location where the lodging is 66064  
located. 66065

(H) If the vendor sells a warranty, maintenance or service 66066  
contract, or similar agreement as specified in division (B)(7) of 66067  
section 5739.01 of the Revised Code and the vendor is a delivery 66068  
vendor, the situs of the sale is the location of the consumer. If 66069  
the vendor is not a delivery vendor, the situs of the sale is the 66070  
vendor's place of business where the contract or agreement was 66071  
made, unless the warranty or contract is a component of the sale 66072  
of a titled motor vehicle, titled watercraft, or titled outboard 66073  
motor, in which case the situs of the sale is the county of 66074  
titling. 66075

~~(I) Except as otherwise provided in this division, if the 66076  
vendor sells a prepaid authorization number or a prepaid telephone 66077  
calling card, the situs of the sale is the vendor's place of 66078  
business and shall be taxed at the time of sale. If the vendor 66079  
sells a prepaid authorization number or prepaid telephone calling 66080  
card through a telephone call, electronic commerce, or any other 66081  
form of remote commerce, the situs of the sale is the consumer's 66082  
shipping address, or, if there is no item shipped, at the 66083  
consumer's billing address. 66084~~

**Sec. 5739.034. (A) As used in this section:** 66085

(1) "Air-to-ground radiotelephone service" means a radio 66086  
service, as defined in 47 C.F.R. 22.99, in which common carriers 66087  
are authorized to offer and provide radio telecommunications 66088  
service for hire to subscribers in aircraft. 66089

(2) "Call-by-call basis" means any method of charging for 66090  
telecommunications services where the price is measured by 66091  
individual calls. 66092

(3) "Communications channel" means a physical or virtual path 66093

of communications over which signals are transmitted between or 66094  
among customer channel termination points. 66095

(4) "Customer" means the person or entity that contracts with 66096  
a seller of telecommunications service. If the end user of 66097  
telecommunications service is not the contracting party, the end 66098  
user of the telecommunications service is the customer of the 66099  
telecommunications service. "Customer" does not include a reseller 66100  
of telecommunications service or of mobile telecommunications 66101  
service of a serving carrier under an agreement to serve the 66102  
customer outside the home service provider's licensed service 66103  
area. 66104

(5) "Customer channel termination point" means the location 66105  
where the customer inputs or receives the communications. 66106

(6) "End user" means the person who utilizes the 66107  
telecommunications service. In the case of a person other than an 66108  
individual, "end user" means the individual who utilizes the 66109  
service on behalf of the person. 66110

(7) "Home service provider" has the same meaning as in the 66111  
"Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 66112  
Stat. 631 (2000), 4 U.S.C. 124(5), as amended. 66113

(8) "Mobile telecommunications service" has the same meaning 66114  
as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 66115  
106-252, 114 Stat. 631 (2000), 4 U.S.C. 124(7), as amended. 66116

(9) "Place of primary use" means the street address 66117  
representative of where the customer's use of the 66118  
telecommunications service primarily occurs, which must be the 66119  
residential street address or the primary business street address 66120  
of the customer. In the case of mobile telecommunications 66121  
services, "place of primary use" must be within the licensed 66122  
service area of the home service provider. 66123

(10) "Post-paid calling service" means the telecommunications 66124

service obtained by making a payment on a call-by-call basis 66125  
either through the use of a credit card or payment mechanism such 66126  
as a bank card, travel card, credit card, or debit card, or by 66127  
charge made to a telephone number that is not associated with the 66128  
origination or termination of the telecommunications service. 66129  
"Post-paid calling service" includes a telecommunications service 66130  
that would be a prepaid calling service, but for the fact that it 66131  
is not exclusively a telecommunications service. 66132

(11) "Prepaid calling service" means the right to access 66133  
exclusively a telecommunications service that must be paid for in 66134  
advance, that enables the origination of calls using an access 66135  
number or authorization code, whether manually or electronically 66136  
dialed, and that is sold in predetermined units or dollars of 66137  
which the number declines with use in a known amount. 66138

(12) "Private communication service" means a 66139  
telecommunications service that entitles the customer to exclusive 66140  
or priority use of a communications channel or group of channels 66141  
between or among termination points, regardless of the manner in 66142  
which the channel or channels are connected, and includes 66143  
switching capacity, extension lines, stations, and any other 66144  
associated services that are provided in connection with the use 66145  
of the channel or channels. 66146

(13) "Service address" means: 66147

(a) The location of the telecommunications equipment to which 66148  
a customer's call is charged and from which the call originates or 66149  
terminates, regardless of where the call is billed or paid. 66150

(b) If the location in division (A)(13)(a) of this section is 66151  
not known, "service address" means the origination point of the 66152  
signal of the telecommunications service first identified by 66153  
either the seller's telecommunications system or in information 66154  
received by the seller from its service provider, where the system 66155

used to transport such signals is not that of the seller. 66156

(c) If the locations in divisions (A)(13)(a) and (b) of this section are not known, "service address" means the location of the customer's place of primary use. 66157  
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(B) The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code on sales of telecommunications service, information service, or mobile telecommunications service, is the sum of the taxes imposed pursuant to those sections at the sourcing location of the sale as determined under this section. 66160  
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(C) Except for the telecommunications services described in division (E) of this section, the sale of telecommunications service sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call originates and terminates in that jurisdiction, or each level of taxing jurisdiction where the call either originates or terminates and in which the service address also is located. 66166  
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(D) Except for the telecommunications services described in division (E) of this section, a sale of telecommunications services sold on a basis other than a call-by-call basis shall be sourced to the customer's place of primary use. 66173  
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(E) The sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction, as follows: 66177  
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(1) A sale of mobile telecommunications service, other than air-to-ground radiotelephone service and prepaid calling service, shall be sourced to the customer's place of primary use as required by the Mobile Telecommunications Sourcing Act. 66179  
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(2) A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by the service provider's telecommunications system, or information received by the seller from its service provider, 66183  
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where the system used to transport such signals is not that of the seller. 66187  
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(3) A sale of prepaid calling service shall be sourced under section 5739.033 of the Revised Code; but in the case of a sale of mobile telecommunications service that is a prepaid telecommunications service, in lieu of sourcing the service under division (A)(5) of section 5739.033 of the Revised Code, the service may be sourced to the location associated with the mobile telephone number. 66189  
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(4) A sale of a private communication service shall be sourced as follows: 66196  
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(a) Service for a separate charge related to a customer channel termination point shall be sourced to each level of jurisdiction in which such customer channel termination point is located. 66198  
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(b) Service where all customer termination points are located entirely within one jurisdiction or level of jurisdiction shall be sourced in the jurisdiction in which the customer channel termination points are located. 66202  
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(c) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segments of channel are separately charged shall be sourced fifty per cent in each level of jurisdiction in which the customer channel termination points are located. 66206  
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(d) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed shall be sourced in each jurisdiction, based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points. 66211  
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Sec. 5739.10. (A) In addition to the tax levied ~~in~~ by section 66217  
5739.02 of the Revised Code and any tax levied pursuant to section 66218  
5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure 66219  
the same objectives specified in ~~said those~~ sections, there is 66220  
hereby levied upon the privilege of engaging in the business of 66221  
making retail sales, an excise tax of five per cent, or, in the 66222  
case of retail sales subject to a tax levied pursuant to section 66223  
5739.021, 5739.023, or 5739.026 of the Revised Code, a percentage 66224  
equal to the aggregate rate of such taxes and the tax levied by 66225  
section 5739.02 of the Revised Code of the receipts derived from 66226  
all retail sales, ~~except retail sales under sixteen cents and~~ 66227  
those to which the excise tax imposed by section 5739.02 of the 66228  
Revised Code is made inapplicable by division (B) of ~~said that~~ 66229  
section. 66230

(B) For the purpose of this section, ~~no~~ vendor shall be 66231  
required to maintain records of ~~individual retail sales of~~ 66232  
~~tangible personal property under sixteen cents or~~ sales of food 66233  
for human consumption off the premises where sold, and no 66234  
assessment shall be made against any vendor for ~~retail sales of~~ 66235  
~~less than sixteen cents or for~~ sales of food for human consumption 66236  
off the premises where sold, solely because the vendor has no 66237  
records of, or has inadequate records of, ~~retail sales of less~~ 66238  
~~than sixteen cents or such~~ sales of food for human consumption off 66239  
~~the premises where sold~~; provided that where a vendor does not 66240  
have adequate records of receipts from ~~his retail sales in excess~~ 66241  
~~of fifteen cents or the vendor's~~ sales of food for human 66242  
consumption on the premises where sold, the tax commissioner may 66243  
refuse to accept the vendor's return and, upon the basis of test 66244  
checks of the vendor's business for a representative period, and 66245  
other information relating to the sales made by such vendor, 66246  
determine the proportion that taxable retail sales bear to all ~~his~~ 66247  
of the vendor's retail sales. The tax imposed by this section 66248



shall be determined by deducting from the sum representing five 66249  
per cent, or, in the case of retail sales subject to a tax levied 66250  
pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised 66251  
Code, a percentage equal to the aggregate rate of such taxes and 66252  
the tax levied by section 5739.02 of the Revised Code of the 66253  
receipts from such retail sales, the amount of tax paid to the 66254  
state or to a clerk of a court of common pleas. The section does 66255  
not affect any duty of the vendor under sections 5739.01 to 66256  
5739.19 and 5739.26 to 5739.31 of the Revised Code, nor the 66257  
liability of any consumer to pay any tax imposed by or pursuant to 66258  
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 66259  
Code. 66260

**Sec. 5739.12.** (A) Each person who has or is required to have 66261  
a vendor's license, on or before the twenty-third day of each 66262  
month, shall make and file a return for the preceding month, on 66263  
forms prescribed by the tax commissioner, and shall pay the tax 66264  
shown on the return to be due. The commissioner may require a 66265  
vendor that operates from multiple locations or has multiple 66266  
vendor's licenses to report all tax liabilities on one 66267  
consolidated return. The return shall show the amount of tax due 66268  
from the vendor to the state for the period covered by the return 66269  
and such other information as the commissioner deems necessary for 66270  
the proper administration of this chapter. The commissioner may 66271  
extend the time for making and filing returns and paying the tax, 66272  
and may require that the return for the last month of any annual 66273  
or semiannual period, as determined by the commissioner, be a 66274  
reconciliation return detailing the vendor's sales activity for 66275  
the preceding annual or semiannual period. The reconciliation 66276  
return shall be filed by the last day of the month following the 66277  
last month of the annual or semiannual period. The commissioner 66278  
may remit all or any part of amounts or penalties that may become 66279  
due under this chapter and may adopt rules relating thereto. Such 66280

return shall be filed by mailing it to the tax commissioner, 66281  
together with payment of the amount of tax shown to be due thereon 66282  
after deduction of any discount provided for under this section. 66283  
Remittance shall be made payable to the treasurer of state. The 66284  
return shall be considered filed when received by the tax 66285  
commissioner, and the payment shall be considered made when 66286  
received by the tax commissioner or when credited to an account 66287  
designated by the treasurer of state or the tax commissioner. 66288

(B) If the return is filed and the amount of tax shown 66289  
thereon to be due is paid on or before the date such return is 66290  
required to be filed, the vendor shall be entitled to a the 66291  
following discount ~~of three-fourths~~: 66292

(1) On and after July 1, 2003, and on and before June 30, 66293  
2005, one and one-tenth per cent of the amount shown to be due on 66294  
the return; 66295

(2) On and after July 1, 2005, three-fourths of one per cent 66296  
of the amount shown to be due on the return, ~~but a.~~ 66297

A vendor that has selected a certified service provider as 66298  
its agent shall not be entitled to the discount. Amounts paid to 66299  
the clerk of courts pursuant to section 4505.06 of the Revised 66300  
Code shall be subject to the ~~three-fourths of one per cent~~ 66301  
applicable discount. The discount shall be in consideration for 66302  
prompt payment to the clerk of courts and for other services 66303  
performed by the vendor in the collection of the tax. 66304

(C)(1) Upon application to the commissioner, a vendor who is 66305  
required to file monthly returns may be relieved of the 66306  
requirement to report and pay the actual tax due, provided that 66307  
the vendor agrees to remit to the tax commissioner payment of not 66308  
less than an amount determined by the commissioner to be the 66309  
average monthly tax liability of the vendor, based upon a review 66310  
of the returns or other information pertaining to such vendor for 66311

a period of not less than six months nor more than two years 66312  
immediately preceding the filing of the application. Vendors who 66313  
agree to the above conditions shall make and file an annual or 66314  
semiannual reconciliation return, as prescribed by the 66315  
commissioner. The reconciliation return shall be filed by mailing 66316  
or delivering it to the tax commissioner, together with payment of 66317  
the amount of tax shown to be due thereon after deduction of any 66318  
discount provided in this section. Remittance shall be made 66319  
payable to the treasurer of state. Failure of a vendor to comply 66320  
with any of the above conditions may result in immediate 66321  
reinstatement of the requirement of reporting and paying the 66322  
actual tax liability on each monthly return, and the commissioner 66323  
may at the commissioner's discretion deny the vendor the right to 66324  
report and pay based upon the average monthly liability for a 66325  
period not to exceed two years. The amount ascertained by the 66326  
commissioner to be the average monthly tax liability of a vendor 66327  
may be adjusted, based upon a review of the returns or other 66328  
information pertaining to the vendor for a period of not less than 66329  
six months nor more than two years preceding such adjustment. 66330

(2) The commissioner may authorize vendors whose tax 66331  
liability is not such as to merit monthly returns, as ascertained 66332  
by the commissioner upon the basis of administrative costs to the 66333  
state, to make and file returns at less frequent intervals. When 66334  
returns are filed at less frequent intervals in accordance with 66335  
such authorization, the vendor shall be allowed the discount ~~of~~ 66336  
~~three-fourths of one per cent~~ provided in this section in 66337  
consideration for prompt payment with the return, provided the 66338  
return is filed together with payment of the amount of tax shown 66339  
to be due thereon, at the time specified by the commissioner, but 66340  
a vendor that has selected a certified service provider as its 66341  
agent shall not be entitled to the discount. 66342

(D) Any vendor who fails to file a return or pay the full 66343

amount of the tax shown on the return to be due under this section 66344  
and the rules of the commissioner may, for each such return the 66345  
vendor fails to file or each such tax the vendor fails to pay in 66346  
full as shown on the return within the period prescribed by this 66347  
section and the rules of the commissioner, be required to forfeit 66348  
and pay into the state treasury an additional charge not exceeding 66349  
fifty dollars or ten per cent of the tax required to be paid for 66350  
the reporting period, whichever is greater, as revenue arising 66351  
from the tax imposed by this chapter, and such sum may be 66352  
collected by assessment in the manner provided in section 5739.13 66353  
of the Revised Code. The commissioner may remit all or a portion 66354  
of the additional charge and may adopt rules relating to the 66355  
imposition and remission of the additional charge. 66356

(E) If the amount required to be collected by a vendor from 66357  
consumers is in excess of ~~five per cent~~ the applicable percentage 66358  
of the vendor's receipts from sales that are taxable under section 66359  
5739.02 of the Revised Code, or in the case of sales subject to a 66360  
tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of 66361  
the Revised Code, in excess of the percentage equal to the 66362  
aggregate rate of such taxes and the tax levied by section 5739.02 66363  
of the Revised Code, such excess shall be remitted along with the 66364  
remittance of the amount of tax due under section 5739.10 of the 66365  
Revised Code. 66366

(F) The commissioner, if the commissioner deems it necessary 66367  
in order to insure the payment of the tax imposed by this chapter, 66368  
may require returns and payments to be made for other than monthly 66369  
periods. The returns shall be signed by the vendor or the vendor's 66370  
authorized agent. 66371

(G) Any vendor required to file a return and pay the tax 66372  
under this section, whose total payment ~~in any year indicated in~~ 66373  
~~division (A) of section 5739.122 of the Revised Code~~ equals or 66374  
exceeds the amount shown in ~~that~~ division (A) of section 5739.122 66375

of the Revised Code, shall make each payment required by this 66376  
section in the second ensuing and each succeeding year by 66377  
electronic funds transfer as prescribed by, and on or before the 66378  
dates specified in, section 5739.122 of the Revised Code, except 66379  
as otherwise prescribed by that section. For a vendor that 66380  
operates from multiple locations or has multiple vendor's 66381  
licenses, in determining whether the vendor's total payment equals 66382  
or exceeds the amount shown in division (A) of that section, the 66383  
vendor's total payment amount shall be the amount of the vendor's 66384  
total tax liability for the previous calendar year for all of the 66385  
vendor's locations or licenses. 66386

**Sec. 5739.121.** (A) As used in this section, "bad debt" means 66387  
any debt that has become worthless or uncollectible in the time 66388  
period between a vendor's preceding return and the present return, 66389  
~~have~~ has been uncollected for at least six months, and that may be 66390  
claimed as a deduction pursuant to the "Internal Revenue Code of 66391  
1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations 66392  
adopted pursuant thereto, or that could be claimed as such a 66393  
deduction if the vendor kept accounts on an accrual basis. "Bad 66394  
debt" does not include any interest or sales tax on the purchase 66395  
price, uncollectible amounts on property that remains in the 66396  
possession of the vendor until the full purchase price is paid, 66397  
expenses incurred in attempting to collect any account receivable 66398  
or for any portion of the debt recovered, ~~any accounts receivable~~ 66399  
~~that have been sold to a third party for collection,~~ and 66400  
repossessed property. 66401

(B) In computing taxable receipts for purposes of this 66402  
chapter, a vendor may deduct the amount of bad debts, ~~as defined~~ 66403  
~~in this section~~. The amount deducted must be charged off as 66404  
uncollectible on the books of the vendor. A deduction may be 66405  
claimed only with respect to bad debts on which the taxes pursuant 66406  
to sections 5739.10 and 5739.12 of the Revised Code were paid in a 66407

preceding tax period. If the vendor's business consists of taxable 66408  
and nontaxable transactions, the deduction shall equal the full 66409  
amount of the debt if the debt is documented as a taxable 66410  
transaction in the vendor's records. If no such documentation is 66411  
available, the maximum deduction on any bad debt shall equal the 66412  
amount of the bad debt multiplied by the quotient obtained by 66413  
dividing the sales taxed pursuant to this chapter during the 66414  
preceding calendar year by all sales during the preceding calendar 66415  
year, whether taxed or not. If a consumer or other person pays all 66416  
or part of a bad debt with respect to which a vendor claimed a 66417  
deduction under this section, the vendor shall be liable for the 66418  
amount of taxes deducted in connection with that portion of the 66419  
debt for which payment is received and shall remit such taxes in 66420  
the vendor's next payment to the tax commissioner. 66421

(C) Any claim for a bad debt deduction under this section 66422  
shall be supported by such evidence as the tax commissioner by 66423  
rule requires. The commissioner shall review any change in the 66424  
rate of taxation applicable to any taxable sales by a vendor 66425  
claiming a deduction pursuant to this section and adopt rules for 66426  
altering the deduction in the event of such a change in order to 66427  
ensure that the deduction on any bad debt does not result in the 66428  
vendor claiming the deduction recovering any more or less than the 66429  
taxes imposed on the sale that constitutes the bad debt. 66430

(D) In any reporting period in which the amount of bad debt 66431  
exceeds the amount of taxable sales for the period, the vendor may 66432  
file a refund claim for any tax collected on the bad debt in 66433  
excess of the tax reported on the return. The refund claim shall 66434  
be filed in the manner provided in section 5739.07 of the Revised 66435  
Code, except that the claim may be filed within four years of the 66436  
due date of the return on which the bad debt first could have been 66437  
claimed. 66438

(E) When the filing responsibilities of a vendor have been 66439

assumed by a certified service provider, the certified service 66440  
provider shall claim the bad debt allowance provided by this 66441  
section on behalf of the vendor. The certified service provider 66442  
shall credit or refund to the vendor the full amount of any bad 66443  
debt allowance or refund. 66444

(F) No person other than the vendor in the transaction that 66445  
generated the bad debt or, as provided in division (E) of this 66446  
section, a certified service provider, may claim the bad debt 66447  
allowance provided by this section. 66448

**Sec. 5739.122.** (A) If the total amount of tax required to be 66449  
paid by a vendor under section 5739.12 of the Revised Code for any 66450  
calendar year ~~indicated in the following schedule~~ equals or 66451  
exceeds ~~the amounts prescribed for that year in the schedule~~ 66452  
seventy-five thousand dollars, the vendor shall remit each monthly 66453  
tax payment in the second ensuing and each succeeding tax year by 66454  
electronic funds transfer as prescribed by divisions (B) and (C) 66455  
of this section. 66456

<del>Year</del>	<del>1992</del>	<del>1993 through 1999</del>	<del>2000 and thereafter</del>	66457
<del>Tax payment</del>	<del>\$1,200,000</del>	<del>\$600,000</del>	<del>\$60,000</del>	66458

If a vendor's tax payment for each of two consecutive years 66459  
~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand 66460  
dollars, the vendor is relieved of the requirement to remit taxes 66461  
by electronic funds transfer for the year that next follows the 66462  
second of the consecutive years in which the tax payment is less 66463  
than ~~sixty thousand dollars~~ that amount, and is relieved of that 66464  
requirement for each succeeding year, unless the tax payment in a 66465  
subsequent year equals or exceeds ~~sixty~~ seventy-five thousand 66466  
dollars. 66467

The tax commissioner shall notify each vendor required to 66468  
remit taxes by electronic funds transfer of the vendor's 66469  
obligation to do so, shall maintain an updated list of those 66470

vendors, and shall timely certify the list and any additions 66471  
thereto or deletions therefrom to the treasurer of state. Failure 66472  
by the tax commissioner to notify a vendor subject to this section 66473  
to remit taxes by electronic funds transfer does not relieve the 66474  
vendor of its obligation to remit taxes by electronic funds 66475  
transfer. 66476

(B) Vendors required by division (A) of this section to remit 66477  
payments by electronic funds transfer shall remit such payments to 66478  
the treasurer of state in the manner prescribed by this section 66479  
and rules adopted by the treasurer of state under section 113.061 66480  
of the Revised Code, and on or before the following dates: 66481

(1) On or before the ~~eleventh~~ fifteenth day of each month, a 66482  
vendor shall remit an amount equal to the taxes collected during 66483  
the first ~~seven~~ eleven days of the month. ~~On or before the~~ 66484  
~~eighteenth day of each month, a vendor shall remit an amount equal~~ 66485  
~~to the taxes collected on the eighth through the fourteenth day of~~ 66486  
~~the month.~~ On or before the twenty-fifth day of each month, a 66487  
vendor shall remit an amount equal to the taxes collected on the 66488  
~~fifteenth~~ twelfth through the twenty-first day of the month. 66489

(2) In lieu of remitting the actual amounts collected for the 66490  
periods specified in division (B)(1) of this section, a vendor 66491  
may, on or before each of the ~~eleventh, eighteenth,~~ fifteenth and 66492  
twenty-fifth days of each month, remit an amount equal to 66493  
~~one-fourth~~ thirty-seven and one-half per cent of the vendor's 66494  
total tax liability for the same month in the preceding calendar 66495  
year. 66496

(3) On or before the twenty-third day of each month, a vendor 66497  
shall report the taxes collected for the previous month and shall 66498  
remit that amount, less any amounts paid for that month as 66499  
required by division (B)(1) or (2) of this section. 66500

The payment of taxes by electronic funds transfer does not 66501



affect a vendor's obligation to file the monthly return as 66502  
required under section 5739.12 of the Revised Code. 66503

(C) A vendor required by this section to remit taxes by 66504  
electronic funds transfer may apply to the treasurer of state in 66505  
the manner prescribed by the treasurer of state to be excused from 66506  
that requirement. The treasurer of state may excuse the vendor 66507  
from remittance by electronic funds transfer for good cause shown 66508  
for the period of time requested by the vendor or for a portion of 66509  
that period. The treasurer of state shall notify the tax 66510  
commissioner and the vendor of the treasurer of state's decision 66511  
as soon as is practicable. 66512

(D)(1) If a vendor that is required to remit payments under 66513  
division (B) of this section fails to make a payment, the 66514  
commissioner may impose an additional charge not to exceed five 66515  
per cent of that unpaid amount. 66516

(2) If a vendor required by this section to remit taxes by 66517  
electronic funds transfer remits those taxes by some means other 66518  
than by electronic funds transfer as prescribed by this section 66519  
and the rules adopted by the treasurer of state, and the treasurer 66520  
of state determines that such failure was not due to reasonable 66521  
cause or was due to willful neglect, the treasurer of state shall 66522  
notify the tax commissioner of the failure to remit by electronic 66523  
funds transfer and shall provide the commissioner with any 66524  
information used in making that determination. The tax 66525  
commissioner may impose an additional charge not to exceed the 66526  
lesser of five per cent of the amount of the taxes required to be 66527  
paid by electronic funds transfer or five thousand dollars. 66528

(3) Any additional charge imposed under division (D)(1) or 66529  
(2) of this section is in addition to any other penalty or charge 66530  
imposed under this chapter, and shall be considered as revenue 66531  
arising from taxes imposed under this chapter. An additional 66532  
charge may be collected by assessment in the manner prescribed by 66533

section 5739.13 of the Revised Code. The tax commissioner may 66534  
waive all or a portion of such a charge and may adopt rules 66535  
governing such waiver. 66536

No additional charge shall be imposed under division (D)(2) 66537  
of this section against a vendor that has been notified of its 66538  
obligation to remit taxes under this section and that remits its 66539  
first two tax payments after such notification by some means other 66540  
than electronic funds transfer. The additional charge may be 66541  
imposed upon the remittance of any subsequent tax payment that the 66542  
vendor remits by some means other than electronic funds transfer. 66543

**Sec. 5739.17.** (A) No person shall engage in making retail 66544  
sales subject to a tax imposed by or pursuant to section 5739.02, 66545  
5739.021, 5739.023, or 5739.026 of the Revised Code as a business 66546  
without having a license therefor, except as otherwise provided in 66547  
divisions (A)(1), (2), and (3) of this section. 66548

(1) In the dissolution of a partnership by death, the 66549  
surviving partner may operate under the license of the partnership 66550  
for a period of sixty days. 66551

(2) The heirs or legal representatives of deceased persons, 66552  
and receivers and trustees in bankruptcy, appointed by any 66553  
competent authority, may operate under the license of the person 66554  
so succeeded in possession. 66555

(3) Two or more persons who are not partners may operate a 66556  
single place of business under one license. In such case neither 66557  
the retirement of any such person from business at that place of 66558  
business, nor the entrance of any person, under an existing 66559  
arrangement, shall affect the license or require the issuance of a 66560  
new license, unless the person retiring from the business is the 66561  
individual named on the vendor's license. 66562

Except as otherwise provided in this section, each applicant 66563

for a license shall make out and deliver to the county auditor of 66564  
each county in which the applicant desires to engage in business, 66565  
upon a blank to be furnished by such auditor for that purpose, a 66566  
statement showing the name of the applicant, each place of 66567  
business in the county where the applicant will make retail sales, 66568  
the nature of the business, and any other information the tax 66569  
commissioner reasonably prescribes in the form of a statement 66570  
prescribed by the commissioner. 66571

At the time of making the application, the applicant shall 66572  
pay into the county treasury a license fee in the sum of 66573  
twenty-five dollars for each fixed place of business in the county 66574  
that will be the situs of retail sales. Upon receipt of the 66575  
application and exhibition of the county treasurer's receipt, 66576  
showing the payment of the license fee, the county auditor shall 66577  
issue to the applicant a license for each fixed place of business 66578  
designated in the application, authorizing the applicant to engage 66579  
in business at that location. If a vendor's identity changes, the 66580  
vendor shall apply for a new license. If a vendor wishes to move 66581  
an existing fixed place of business to a new location within the 66582  
same county, the vendor shall obtain a new vendor's license or 66583  
submit a request to the tax commissioner to transfer the existing 66584  
vendor's license to the new location. When the new location has 66585  
been verified as being within the same county, the commissioner 66586  
shall authorize the transfer and notify the county auditor of the 66587  
change of location. If a vendor wishes to move an existing fixed 66588  
place of business to another county, the vendor's license shall 66589  
not transfer and the vendor shall obtain a new vendor's license 66590  
from the county in which the business is to be located. The form 66591  
of the license shall be prescribed by the commissioner. The fees 66592  
collected shall be credited to the general fund of the county. 66593

A vendor that makes retail sales subject to tax under Chapter 66594  
5739. of the Revised Code pursuant to a permit issued by the 66595

division of liquor control shall obtain a vendor's license in the 66596  
identical name and for the identical address as shown on the 66597  
permit. 66598

Except as otherwise provided in this section, if a vendor has 66599  
no fixed place of business and sells from a vehicle, each vehicle 66600  
intended to be used within a county constitutes a place of 66601  
business for the purpose of this section. 66602

(B) As used in this division, "transient vendor" means any 66603  
person who makes sales of tangible personal property from vending 66604  
machines located on land owned by others, who leases titled motor 66605  
vehicles, titled watercraft, or titled outboard motors, who 66606  
effectuates leases that are taxed according to division 66607  
~~(H)(4)(A)(2)~~ of section ~~5739.01~~ 5739.02 of the Revised Code, or 66608  
who, in the usual course of the person's business, transports 66609  
inventory, stock of goods, or similar tangible personal property 66610  
to a temporary place of business or temporary exhibition, show, 66611  
fair, flea market, or similar event in a county in which the 66612  
person has no fixed place of business, for the purpose of making 66613  
retail sales of such property. A "temporary place of business" 66614  
means any public or quasi-public place including, but not limited 66615  
to, a hotel, rooming house, storeroom, building, part of a 66616  
building, tent, vacant lot, railroad car, or motor vehicle that is 66617  
temporarily occupied for the purpose of making retail sales of 66618  
goods to the public. A place of business is not temporary if the 66619  
same person conducted business at the place continuously for more 66620  
than six months or occupied the premises as the person's permanent 66621  
residence for more than six months, or if the person intends it to 66622  
be a fixed place of business. 66623

Any transient vendor, in lieu of obtaining a vendor's license 66624  
under division (A) of this section for counties in which the 66625  
transient vendor has no fixed place of business, may apply to the 66626  
tax commissioner, on a form prescribed by the commissioner, for a 66627

transient vendor's license. The transient vendor's license 66628  
authorizes the transient vendor to make retail sales in any county 66629  
in which the transient vendor does not maintain a fixed place of 66630  
business. Any holder of a transient vendor's license shall not be 66631  
required to obtain a separate vendor's license from the county 66632  
auditor in that county. Upon the commissioner's determination that 66633  
an applicant is a transient vendor, the applicant shall pay a 66634  
license fee in the amount of twenty-five dollars, at which time 66635  
the tax commissioner shall issue the license. The tax commissioner 66636  
may require a vendor to be licensed as a transient vendor if, in 66637  
the opinion of the commissioner, such licensing is necessary for 66638  
the efficient administration of the tax. 66639

Any holder of a valid transient vendor's license may make 66640  
retail sales at a temporary place of business or temporary 66641  
exhibition, show, fair, flea market, or similar event, held 66642  
anywhere in the state without complying with any provision of 66643  
section 311.37 of the Revised Code. Any holder of a valid vendor's 66644  
license may make retail sales as a transient vendor at a temporary 66645  
place of business or temporary exhibition, show, fair, flea 66646  
market, or similar event held in any county in which the vendor 66647  
maintains a fixed place of business for which the vendor holds a 66648  
vendor's license without obtaining a transient vendor's license. 66649

(C) As used in this division, "service vendor" means any 66650  
person who, in the usual course of the person's business, sells 66651  
services described in division (B)(3)(e), (f), (g), (h), (i), (j), 66652  
(k), (l), ~~or~~ (m), (q), or (u) of section 5739.01 of the Revised 66653  
Code. 66654

Every service vendor shall make application to the tax 66655  
commissioner for a service vendor's license. Each applicant shall 66656  
pay a license fee in the amount of twenty-five dollars. Upon the 66657  
commissioner's determination that an applicant is a service vendor 66658  
and payment of the fee, the commissioner shall issue the applicant 66659

a service vendor's license. 66660

Only sales described in division (B)(3)(e), (f), (g), (h), 66661  
(i), (j), (k), (l), ~~or (m)~~, (g), or (u) of section 5739.01 of the 66662  
Revised Code may be made under authority of a service vendor's 66663  
license, and that license authorizes sales to be made at any place 66664  
in this state. Any service vendor who makes sales of other 66665  
services or tangible personal property subject to the sales tax 66666  
also shall be licensed under division (A), (B), or (D) of this 66667  
section. 66668

(D) As used in this division, "delivery vendor" means any 66669  
vendor who engages in one or more of the activities described in 66670  
divisions (D)(1) to (4) of this section, and who maintains no 66671  
store, showroom, or similar fixed place of business or other 66672  
location where merchandise regularly is offered for sale or 66673  
displayed or shown in catalogs for selection or pick-up by 66674  
consumers, or where consumers bring goods for repair or other 66675  
service. 66676

(1) The vendor makes retail sales of tangible personal 66677  
property; 66678

(2) The vendor rents or leases, at retail, tangible personal 66679  
property, except titled motor vehicles, titled watercraft, or 66680  
titled outboard motors; 66681

(3) The vendor provides a service, at retail, described in 66682  
division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the 66683  
Revised Code; or 66684

(4) The vendor makes retail sales of warranty, maintenance or 66685  
service contracts, or similar agreements as described in division 66686  
(B)(7) of section 5739.01 of the Revised Code. 66687

A transient vendor or a seller registered pursuant to section 66688  
5741.17 of the Revised Code is not a delivery vendor. 66689

Delivery vendors shall apply to the tax commissioner, on a form prescribed by the commissioner, for a delivery vendor's license. Each applicant shall pay a license fee of twenty-five dollars for each delivery vendor's license, to be credited to the general revenue fund. Upon the commissioner's determination that the applicant is a delivery vendor, the commissioner shall issue the license. A delivery vendor's license authorizes retail sales to be made throughout the state. All sales of the vendor must be reported under the delivery license. The commissioner may require a vendor to be licensed as a delivery vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax. The commissioner shall not issue a delivery vendor license to a vendor who holds a license issued under division (A) of this section.

(E) Any transient vendor who is issued a license pursuant to this section shall display the license or a copy of it prominently, in plain view, at every place of business of the transient vendor. Every owner, organizer, or promoter who operates a fair, flea market, show, exhibition, convention, or similar event at which transient vendors are present shall keep a comprehensive record of all such vendors, listing the vendor's name, permanent address, vendor's license number, and the type of goods sold. Such records shall be kept for four years and shall be open to inspection by the tax commissioner.

**Sec. 5739.21.** (A) Four and two-tenths per cent of all money deposited into the state treasury under sections 5739.01 to 5739.31 of the Revised Code and not required to be distributed as provided in section 5739.102 of the Revised Code or division (B) of this section shall be credited to the local government fund for distribution in accordance with section 5747.50 of the Revised Code, six-tenths of one per cent shall be credited to the local

government revenue assistance fund for distribution in accordance 66721  
with section 5747.61 of the Revised Code, and ninety-five and 66722  
two-tenths per cent shall be credited to the general revenue fund. 66723

(B)(1) In any case where any county or transit authority has 66724  
levied a tax or taxes pursuant to section 5739.021, 5739.023, or 66725  
5739.026 of the Revised Code, the tax commissioner shall, within 66726  
forty-five days after the end of each month, determine and certify 66727  
to the director of budget and management the amount of the 66728  
proceeds of such tax or taxes received during that month from 66729  
billings and assessments ~~received during that month~~, or ~~shown on~~ 66730  
associated with tax returns or reports filed during that month, to 66731  
be returned to the county or transit authority levying the tax or 66732  
taxes. The amount to be returned to each county and transit 66733  
authority shall be a fraction of the aggregate amount of money 66734  
collected with respect to each area in which one or more of such 66735  
taxes are concurrently in effect with the tax levied by section 66736  
5739.02 of the Revised Code, ~~the~~. The numerator of which the 66737  
fraction is the rate of the tax levied by the county or transit 66738  
authority and the denominator of ~~which the fraction~~ is the 66739  
aggregate rate of such taxes applicable to such area; ~~provided,~~ 66740  
~~that the~~. The amount to be returned to each county or transit 66741  
authority shall be reduced by the amount of any refunds of county 66742  
or transit authority tax paid pursuant to section 5739.07 of the 66743  
Revised Code during the same month, or transfers made pursuant to 66744  
division (B)(2) of section 5703.052 of the Revised Code. 66745

(2) On a periodic basis, using the best information 66746  
available, the tax commissioner shall distribute any amount of a 66747  
county or transit authority tax that cannot be distributed under 66748  
division (B)(1) of this section. Through audit or other means, the 66749  
commissioner shall attempt to obtain the information necessary to 66750  
make the distribution as provided under that division and, on 66751  
receipt of that information, shall make adjustments to 66752



distributions previously made under this division. 66753

(C) The aggregate amount to be returned to any county or 66754  
transit authority shall be reduced by one per cent, which shall be 66755  
certified directly to the credit of the local sales tax 66756  
administrative fund, which is hereby created in the state 66757  
treasury. For the purpose of determining the amount to be returned 66758  
to a county and transit authority in which the rate of tax imposed 66759  
by the transit authority has been reduced under section 5739.028 66760  
of the Revised Code, the tax commissioner shall use the respective 66761  
rates of tax imposed by the county or transit authority that 66762  
results from the change in the rates authorized under that 66763  
section. ~~The~~ 66764

(D) The director of budget and management shall transfer, 66765  
from the same funds and in the same proportions specified in 66766  
division (A) of this section, to the permissive tax distribution 66767  
fund created by division (B)(1) of section 4301.423 of the Revised 66768  
Code and to the local sales tax administrative fund, the amounts 66769  
certified by the tax commissioner. The tax commissioner shall 66770  
then, on or before the twentieth day of the month in which such 66771  
certification is made, provide for payment of such respective 66772  
amounts to the county treasurer and to the fiscal officer of the 66773  
transit authority levying the tax or taxes. The amount transferred 66774  
to the local sales tax administrative fund is for use by the tax 66775  
commissioner in defraying costs incurred in administering such 66776  
taxes levied by a county or transit authority. 66777

**Sec. 5739.33.** If any corporation, limited liability company, 66778  
or business trust required to file returns and to remit tax due to 66779  
the state under this chapter, including a holder of a direct 66780  
payment permit under section 5739.031 of the Revised Code, fails 66781  
for any reason to make the filing or payment, any of its employees 66782  
having control or supervision of or charged with the 66783

responsibility of filing returns and making payments, or any of 66784  
its officers, members, managers, or trustees who are responsible 66785  
for the execution of the corporation's, limited liability 66786  
company's, or business trust's fiscal responsibilities, shall be 66787  
personally liable for the failure. The dissolution, termination, 66788  
or bankruptcy of a corporation, limited liability company, or 66789  
business trust shall not discharge a responsible officer's, 66790  
member's, manager's, employee's, or trustee's liability for a 66791  
failure of the corporation, limited liability company, or business 66792  
trust to file returns or remit tax due. The sum due for the 66793  
liability may be collected by assessment in the manner provided in 66794  
section 5739.13 of the Revised Code. 66795

**Sec. 5741.01.** As used in this chapter: 66796

(A) "Person" includes individuals, receivers, assignees, 66797  
trustees in bankruptcy, estates, firms, partnerships, 66798  
associations, joint-stock companies, joint ventures, clubs, 66799  
societies, corporations, business trusts, governments, and 66800  
combinations of individuals of any form. 66801

(B) "Storage" means and includes any keeping or retention in 66802  
this state for use or other consumption in this state. 66803

(C) "Use" means and includes the exercise of any right or 66804  
power incidental to the ownership of the thing used. A thing is 66805  
also "used" in this state if its consumer gives or otherwise 66806  
distributes it, without charge, to recipients in this state. 66807

(D) "Purchase" means acquired or received for a 66808  
consideration, whether such acquisition or receipt was effected by 66809  
a transfer of title, or of possession, or of both, or a license to 66810  
use or consume; whether such transfer was absolute or conditional, 66811  
and by whatever means the transfer was effected; and whether the 66812  
consideration was money, credit, barter, or exchange. Purchase 66813  
includes production, even though the article produced was used, 66814

stored, or consumed by the producer. The transfer of copyrighted 66815  
motion picture films for exhibition purposes is not a purchase, 66816  
except such films as are used solely for advertising purposes. 66817

(E) "Seller" means the person from whom a purchase is made, 66818  
and includes every person engaged in this state or elsewhere in 66819  
the business of selling tangible personal property or providing a 66820  
service for storage, use, or other consumption or benefit in this 66821  
state; and when, in the opinion of the tax commissioner, it is 66822  
necessary for the efficient administration of this chapter, to 66823  
regard any salesman, representative, peddler, or canvasser as the 66824  
agent of a dealer, distributor, supervisor, or employer under whom 66825  
the person operates, or from whom the person obtains tangible 66826  
personal property, sold by the person for storage, use, or other 66827  
consumption in this state, irrespective of whether or not the 66828  
person is making such sales on the person's own behalf, or on 66829  
behalf of such dealer, distributor, supervisor, or employer, the 66830  
commissioner may regard the person as such agent, and may regard 66831  
such dealer, distributor, supervisor, or employer as the seller. 66832  
"Seller" does not include any person to the extent the person 66833  
provides a communications medium, such as, but not limited to, 66834  
newspapers, magazines, radio, television, or cable television, by 66835  
means of which sellers solicit purchases of their goods or 66836  
services. 66837

(F) "Consumer" means any person who has purchased tangible 66838  
personal property or has been provided a service for storage, use, 66839  
or other consumption or benefit in this state. "Consumer" does not 66840  
include a person who receives, without charge, tangible personal 66841  
property or a service. 66842

A person who performs a facility management or similar 66843  
service contract for a contractee is a consumer of all tangible 66844  
personal property and services purchased for use in connection 66845  
with the performance of such contract, regardless of whether title 66846

to any such property vests in the contractee. The purchase of such 66847  
property and services is not subject to the exception for resale 66848  
under division (E)~~(1)~~ of section 5739.01 of the Revised Code. 66849

(G)~~(1)~~ "Price," except as provided in the case of watercraft, 66850  
~~outboard motors, or new motor vehicles, means the aggregate value~~ 66851  
~~in money of anything paid or delivered, or promised to be paid or~~ 66852  
~~delivered, by a consumer to a seller in the complete performance~~ 66853  
~~of the transaction by which tangible personal property has been~~ 66854  
~~purchased or a service has been provided for storage, use, or~~ 66855  
~~other consumption or benefit in this state, without any deduction~~ 66856  
~~or exclusion on account of the cost of the property sold, cost of~~ 66857  
~~materials used, labor or service cost, interest, discount paid or~~ 66858  
~~allowed after the sale is consummated, or any other expense. If~~ 66859  
~~the transaction consists of the rental or lease of tangible~~ 66860  
~~personal property, "price" means the aggregate value in money of~~ 66861  
~~anything paid or delivered, or promised to be paid or delivered by~~ 66862  
~~the lessee to the lessor, in the complete performance of the~~ 66863  
~~rental or lease, without any deduction or exclusion of tax,~~ 66864  
~~interest, labor or service charge, damage liability waiver,~~ 66865  
~~termination or damage charge, discount paid or allowed after the~~ 66866  
~~lease is consummated, or any other expense. Except as provided in~~ 66867  
~~division (C)(6) of this section, the tax shall be calculated and~~ 66868  
~~collected by the lessor on each payment made by the lessee. If a~~ 66869  
~~consumer produces the tangible personal property used by the~~ 66870  
~~consumer, the price is the produced cost of such tangible personal~~ 66871  
~~property. "Price" does not include delivery charges that are~~ 66872  
~~separately stated on the initial invoice or initial billing~~ 66873  
~~rendered by the seller.~~ 66874

~~The tax collected by the seller from the consumer under this~~ 66875  
~~chapter is not a part of the price, but is a tax collection for~~ 66876  
~~the benefit of the state, and of counties levying an additional~~ 66877  
~~use tax pursuant to section 5741.021 or 5741.023 of the Revised~~ 66878

~~Code and of transit authorities levying an additional use tax 66879  
pursuant to section 5741.022 of the Revised Code and, except for 66880  
the discount authorized under section 5741.12 of the Revised Code 66881  
and the effects of any rounding pursuant to section 5703.055 of 66882  
the Revised Code, no person other than the state or such a county 66883  
or transit authority shall derive any benefit from the collection 66884  
or payment of such tax. 66885~~

~~As used in division divisions (G)~~(1)~~(2) to (6) of this 66886  
section, "delivery charges" means charges by the seller for 66887  
preparation and delivery to a location designated by the consumer 66888  
of tangible personal property or a service, including 66889  
transportation, shipping, postage, handling, crating, and packing 66890  
has the same meaning as in division (H)(1) of section 5739.01 of 66891  
the Revised Code. 66892~~

~~(2) In the case of watercraft, outboard motors, or new motor 66893  
vehicles, "price" has the same meaning as in division divisions 66894  
(H)(2) and (3) of section 5739.01 of the Revised Code. 66895~~

~~(3) In the case of a nonresident business consumer that 66896  
purchases and uses tangible personal property outside this state 66897  
and subsequently temporarily stores, uses, or otherwise consumes 66898  
such tangible personal property in the conduct of business in this 66899  
state, the consumer or the tax commissioner may determine the 66900  
price based on the value of the temporary storage, use, or other 66901  
consumption, in lieu of determining the price pursuant to division 66902  
(G)(1) of this section. A price determination made by the consumer 66903  
is subject to review and redetermination by the commissioner. 66904~~

~~(4) In the case of tangible personal property held in this 66905  
state as inventory for sale or lease, and that is temporarily 66906  
stored, used, or otherwise consumed in a taxable manner, the price 66907  
is the value of the temporary use. A price determination made by 66908  
the consumer is subject to review and redetermination by the 66909  
commissioner. 66910~~

(5) In the case of tangible personal property originally purchased and used by the consumer outside this state, and that becomes permanently stored, used, or otherwise consumed in this state more than six months after its acquisition by the consumer, the consumer or the commissioner may determine the price based on the current value of such tangible personal property, in lieu of determining the price pursuant to division (G)(1) of this section. A price determination made by the consumer is subject to review and redetermination by the commissioner.

~~(6) In the case of the purchase or lease of any motor vehicle designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or the lease of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee primarily for business purposes, the tax shall be collected by the vendor at the time the lease is consummated and calculated by the vendor on the basis of the total amount to be paid by the lessee under the lease agreement. If the total amount of the consideration for the lease includes amounts that are not calculated at the time the lease is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee. In the case of an open end lease, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease, and then for each subsequent renewal period as it comes due. As used in division (G)(6) of this section only, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code If a consumer produces tangible personal property for sale and removes that property from inventory for the consumer's own use, the price is the produced cost of that tangible personal property.~~

(H) "Nexus with this state" means that the seller engages in continuous and widespread solicitation of purchases from residents

of this state or otherwise purposefully directs its business 66943  
activities at residents of this state. 66944

(I) "Substantial nexus with this state" means that the seller 66945  
has sufficient contact with this state, in accordance with Section 66946  
8 of Article I of the Constitution of the United States, to allow 66947  
the state to require the seller to collect and remit use tax on 66948  
sales of tangible personal property or services made to consumers 66949  
in this state. "Substantial nexus with this state" exists when the 66950  
seller does any of the following: 66951

(1) Maintains a place of business within this state, whether 66952  
operated by employees or agents of the seller, by a member of an 66953  
affiliated group, as ~~described~~ defined in division (B)(3)(e) of 66954  
section 5739.01 of the Revised Code, of which the seller is a 66955  
member, or by a franchisee using a trade name of the seller; 66956

(2) Regularly has employees, agents, representatives, 66957  
solicitors, installers, repairmen, salesmen, or other individuals 66958  
in this state for the purpose of conducting the business of the 66959  
seller; 66960

(3) Uses a person in this state for the purpose of receiving 66961  
or processing orders of the seller's goods or services; 66962

(4) Makes regular deliveries of tangible personal property 66963  
into this state by means other than common carrier; 66964

(5) Has membership in an affiliated group, as described in 66965  
division (B)(3)(e) of section 5739.01 of the Revised Code, at 66966  
least one other member of which has substantial nexus with this 66967  
state; 66968

(6) Owns tangible personal property that is rented or leased 66969  
to a consumer in this state, or offers tangible personal property, 66970  
on approval, to consumers in this state; 66971

(7) Except as provided in section 5703.65 of the Revised 66972

Code, is registered with the secretary of state to do business in 66973  
this state or is registered or licensed by any state agency, 66974  
board, or commission to transact business in this state or to make 66975  
sales to persons in this state; 66976

(8) Has any other contact with this state that would allow 66977  
this state to require the seller to collect and remit use tax 66978  
under Section 8 of Article I of the Constitution of the United 66979  
States. 66980

(J) "Fiscal officer" means, with respect to a regional 66981  
transit authority, the secretary-treasurer thereof, and with 66982  
respect to a county which is a transit authority, the fiscal 66983  
officer of the county transit board appointed pursuant to section 66984  
306.03 of the Revised Code or, if the board of county 66985  
commissioners operates the county transit system, the county 66986  
auditor. 66987

(K) "Territory of the transit authority" means all of the 66988  
area included within the territorial boundaries of a transit 66989  
authority as they from time to time exist. Such territorial 66990  
boundaries must at all times include all the area of a single 66991  
county or all the area of the most populous county which is a part 66992  
of such transit authority. County population shall be measured by 66993  
the most recent census taken by the United States census bureau. 66994

(L) "Transit authority" means a regional transit authority 66995  
created pursuant to section 306.31 of the Revised Code or a county 66996  
in which a county transit system is created pursuant to section 66997  
306.01 of the Revised Code. For the purposes of this chapter, a 66998  
transit authority must extend to at least the entire area of a 66999  
single county. A transit authority which includes territory in 67000  
more than one county must include all the area of the most 67001  
populous county which is a part of such transit authority. County 67002  
population shall be measured by the most recent census taken by 67003  
the United States census bureau. 67004



(M) "Providing a service" has the same meaning as in division 67005  
(X) of section 5739.01 of the Revised Code. 67006

(N) "Other consumption" includes receiving the benefits of a 67007  
service. 67008

(O) "~~Lease~~" ~~means any transfer for a consideration of the~~ 67009  
~~possession of and right to use, but not title to, tangible~~ 67010  
~~personal property for a fixed period of time greater than thirty~~ 67011  
~~days or for an open ended period of time with a minimum fixed~~ 67012  
~~period of more than thirty days or "rental" has the same meaning~~ 67013  
~~as in division (UU) of section 5739.01 of the Revised Code.~~ 67014

(P) "Certified service provider" has the same meaning as in 67015  
section 5740.01 of the Revised Code. 67016

**Sec. 5741.02.** (A)(1) For the use of the general revenue fund 67017  
of the state, an excise tax is hereby levied on the storage, use, 67018  
or other consumption in this state of tangible personal property 67019  
or the benefit realized in this state of any service provided. The 67020  
tax shall be collected ~~pursuant to the schedules as provided~~ in 67021  
section 5739.025 of the Revised Code, provided that on and after 67022  
July 1, 2003, and on or before June 30, 2005, the rate of the tax 67023  
shall be six per cent. On and after July 1, 2005, the rate of the 67024  
tax shall be five per cent. 67025

(2) In the case of the lease or rental, with a fixed term of 67026  
more than thirty days or an indefinite term with a minimum period 67027  
of more than thirty days, of any motor vehicles designed by the 67028  
manufacturer to carry a load of not more than one ton, watercraft, 67029  
outboard motor, or aircraft, or of any tangible personal property, 67030  
other than motor vehicles designed by the manufacturer to carry a 67031  
load of more than one ton, to be used by the lessee or renter 67032  
primarily for business purposes, the tax shall be collected by the 67033  
seller at the time the lease or rental is consummated and shall be 67034

calculated by the seller on the basis of the total amount to be 67035  
paid by the lessee or renter under the lease or rental agreement. 67036  
If the total amount of the consideration for the lease or rental 67037  
includes amounts that are not calculated at the time the lease or 67038  
rental is executed, the tax shall be calculated and collected by 67039  
the seller at the time such amounts are billed to the lessee or 67040  
renter. In the case of an open-end lease or rental, the tax shall 67041  
be calculated by the seller on the basis of the total amount to be 67042  
paid during the initial fixed term of the lease or rental, and for 67043  
each subsequent renewal period as it comes due. As used in this 67044  
division, "motor vehicle" has the same meaning as in section 67045  
4501.01 of the Revised Code, and "watercraft" includes an outdrive 67046  
unit attached to the watercraft. 67047

(3) Except as provided in division (A)(2) of this section, in 67048  
the case of a transaction, the price of which consists in whole or 67049  
part of the lease or rental of tangible personal property, the tax 67050  
shall be measured by the installments of those leases or rentals. 67051

(B) Each consumer, storing, using, or otherwise consuming in 67052  
this state tangible personal property or realizing in this state 67053  
the benefit of any service provided, shall be liable for the tax, 67054  
and such liability shall not be extinguished until the tax has 67055  
been paid to this state; provided, that the consumer shall be 67056  
relieved from further liability for the tax if the tax has been 67057  
paid to a seller in accordance with section 5741.04 of the Revised 67058  
Code or prepaid by the seller in accordance with section 5741.06 67059  
of the Revised Code. 67060

(C) The tax does not apply to the storage, use, or 67061  
consumption in this state of the following described tangible 67062  
personal property or services, nor to the storage, use, or 67063  
consumption or benefit in this state of tangible personal property 67064  
or services purchased under the following described circumstances: 67065

(1) When the sale of property or service in this state is 67066

subject to the excise tax imposed by sections 5739.01 to 5739.31 67067  
of the Revised Code, provided said tax has been paid; 67068

(2) Except as provided in division (D) of this section, 67069  
tangible personal property or services, the acquisition of which, 67070  
if made in Ohio, would be a sale not subject to the tax imposed by 67071  
sections 5739.01 to 5739.31 of the Revised Code; 67072

(3) Property or services, the storage, use, or other 67073  
consumption of or benefit from which this state is prohibited from 67074  
taxing by the Constitution of the United States, laws of the 67075  
United States, or the Constitution of this state. This exemption 67076  
shall not exempt from the application of the tax imposed by this 67077  
section the storage, use, or consumption of tangible personal 67078  
property that was purchased in interstate commerce, but that has 67079  
come to rest in this state, provided that fuel to be used or 67080  
transported in carrying on interstate commerce that is stopped 67081  
within this state pending transfer from one conveyance to another 67082  
is exempt from the excise tax imposed by this section and section 67083  
5739.02 of the Revised Code; 67084

(4) Transient use of tangible personal property in this state 67085  
by a nonresident tourist or vacationer, or a non-business use 67086  
within this state by a nonresident of this state, if the property 67087  
so used was purchased outside this state for use outside this 67088  
state and is not required to be registered or licensed under the 67089  
laws of this state; 67090

(5) Tangible personal property or services rendered, upon 67091  
which taxes have been paid to another jurisdiction to the extent 67092  
of the amount of the tax paid to such other jurisdiction. Where 67093  
the amount of the tax imposed by this section and imposed pursuant 67094  
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 67095  
exceeds the amount paid to another jurisdiction, the difference 67096  
shall be allocated between the tax imposed by this section and any 67097  
tax imposed by a county or a transit authority pursuant to section 67098

5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 67099  
to the respective rates of such taxes. 67100

As used in this subdivision, "taxes paid to another 67101  
jurisdiction" means the total amount of retail sales or use tax or 67102  
similar tax based upon the sale, purchase, or use of tangible 67103  
personal property or services rendered legally, levied by and paid 67104  
to another state or political subdivision thereof, or to the 67105  
District of Columbia, where the payment of such tax does not 67106  
entitle the taxpayer to any refund or credit for such payment. 67107

(6) The transfer of a used manufactured home or used mobile 67108  
home, as defined by section 5739.0210 of the Revised Code, made on 67109  
or after January 1, 2000; 67110

(7) Drugs that are or are intended to be distributed free of 67111  
charge to a practitioner licensed to prescribe, dispense, and 67112  
administer drugs to a human being in the course of a professional 67113  
practice and that by law may be dispensed only by or upon the 67114  
order of such a practitioner. 67115

(D) The tax applies to the storage, use, or other consumption 67116  
in this state of tangible personal property or services, the 67117  
acquisition of which at the time of sale was excepted under 67118  
division (E)~~(1)~~ of section 5739.01 of the Revised Code from the 67119  
tax imposed by section 5739.02 of the Revised Code, but which has 67120  
subsequently been temporarily or permanently stored, used, or 67121  
otherwise consumed in a taxable manner. 67122

(E)(1) If any transaction is claimed to be exempt under 67123  
division (E) of section 5739.01 of the Revised Code or under 67124  
section 5739.02 of the Revised Code, with the exception of 67125  
divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised 67126  
Code, the consumer shall provide to the seller, and the seller 67127  
shall obtain from the consumer, a certificate specifying the 67128  
reason that the transaction is not subject to the tax. The 67129

certificate shall be provided either in a hard copy form or 67130  
electronic form, as prescribed by the tax commissioner. If the 67131  
transaction is claimed to be exempt under division (B)(13) of 67132  
section 5739.02 of the Revised Code, the exemption certificate 67133  
shall be provided by both the contractor and contractee. Such 67134  
contractee shall be deemed to be the consumer of all items 67135  
purchased under the claim of exemption if it is subsequently 67136  
determined that the exemption is not properly claimed. The 67137  
certificate shall be in such form as the tax commissioner by rule 67138  
prescribes. The seller shall maintain records, including exemption 67139  
certificates, of all sales on which a consumer has claimed an 67140  
exemption, and provide them to the tax commissioner on request. 67141

(2) If no certificate is provided or obtained within the 67142  
period for filing the return for the period in which the 67143  
transaction is consummated, it shall be presumed that the tax 67144  
applies. The failure to have so provided or obtained a certificate 67145  
shall not preclude a seller or consumer from establishing, within 67146  
one hundred twenty days of the giving of notice by the 67147  
commissioner of intention to levy an assessment, that the 67148  
transaction is not subject to the tax. 67149

(F) A seller who files a petition for reassessment contesting 67150  
the assessment of tax on transactions for which the seller 67151  
obtained no valid exemption certificates, and for which the seller 67152  
failed to establish that the transactions were not subject to the 67153  
tax during the one-hundred-twenty-day period allowed under 67154  
division (E) of this section, may present to the tax commissioner 67155  
additional evidence to prove that the transactions were exempt. 67156  
The seller shall file such evidence within ninety days of the 67157  
receipt by the seller of the notice of assessment, except that, 67158  
upon application and for reasonable cause, the tax commissioner 67159  
may extend the period for submitting such evidence thirty days. 67160

(G) For the purpose of the proper administration of sections 67161

5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 67162  
of the tax hereby levied, it shall be presumed that any use, 67163  
storage, or other consumption of tangible personal property in 67164  
this state is subject to the tax until the contrary is 67165  
established. 67166

(H) The tax collected by the seller from the consumer under 67167  
this chapter is not part of the price, but is a tax collection for 67168  
the benefit of the state, and of counties levying an additional 67169  
use tax pursuant to section 5741.021 or 5741.023 of the Revised 67170  
Code and of transit authorities levying an additional use tax 67171  
pursuant to section 5741.022 of the Revised Code. Except for the 67172  
discount authorized under section 5741.12 of the Revised Code and 67173  
the effects of any rounding pursuant to section 5703.055 of the 67174  
Revised Code, no person other than the state or such a county or 67175  
transit authority shall derive any benefit from the collection of 67176  
such tax. 67177

**Sec. 5741.021.** (A) For the purpose of providing additional 67178  
general revenues for the county or supporting criminal and 67179  
administrative justice services in the county, or both, and to pay 67180  
the expenses of administering such levy, any county which levies a 67181  
tax pursuant to section 5739.021 of the Revised Code shall levy a 67182  
tax at the same rate levied pursuant to section 5739.021 of the 67183  
Revised Code on the storage, use, or other consumption in the 67184  
county of the following: 67185

(1) Motor vehicles ~~acquired on or after May 1, 1970,~~ and 67186  
watercraft and outboard motors required to be titled in the county 67187  
pursuant to Chapter 1548. of the Revised Code and ~~acquired on or~~ 67188  
~~after April 1, 1990,~~ by a transaction subject to the tax imposed 67189  
by section 5739.02 of the Revised Code; 67190

(2) In addition to the tax imposed by section 5741.02 of the 67191  
Revised Code, tangible personal property and services subject to 67192

the tax levied by this state as provided in section 5741.02 of the Revised Code, and tangible personal property and services purchased in another county within this state by a transaction subject to the tax imposed by section 5739.02 of the Revised Code.

The tax shall be levied pursuant to a resolution of the board of county commissioners which shall be adopted after publication of notice and hearing in the same manner as provided in section 5739.021 of the Revised Code. Such resolution shall be adopted and shall become effective on the same day as the resolution adopted by the board of county commissioners levying a sales tax pursuant to section 5739.021 of the Revised Code and shall remain in effect until such sales tax is repealed.

(B) The tax levied pursuant to this section on the storage, use, or other consumption of tangible personal property and on the benefit of a service realized shall be in addition to the tax levied by section 5741.02 of the Revised Code and, except as provided in division (D) of this section, any tax levied pursuant to sections 5741.022 and 5741.023 of the Revised Code.

(C) The additional tax levied by the county shall be collected pursuant to ~~the schedules in~~ section 5739.025 of the Revised Code. If the additional tax or some portion thereof is levied for the purpose of criminal and administrative justice services, the revenue from the tax, or the amount or rate apportioned to that purpose, shall be credited to a special fund created in the county treasury for receipt of that revenue.

(D) The tax levied pursuant to this section shall not be applicable to any benefit of a service realized or to any storage, use, or consumption of property not within the taxing power of a county under the constitution of the United States or the constitution of this state, or to property or services on which a tax levied by a county or transit authority pursuant to this section or section 5739.021, 5739.023, 5739.026, 5741.022, or

5741.023 of the Revised Code has been paid, if the sum of the 67225  
taxes paid pursuant to those sections is equal to or greater than 67226  
the sum of the taxes due under this section and sections 5741.022 67227  
and 5741.023 of the Revised Code. If the sum of the taxes paid is 67228  
less than the sum of the taxes due under this section and sections 67229  
5741.022 and 5741.023 of the Revised Code, the amount of tax paid 67230  
shall be credited against the amount of tax due. 67231

(E) As used in this section, "criminal and administrative 67232  
justice services" has the same meaning as in section 5739.021 of 67233  
the Revised Code. 67234

**Sec. 5741.022.** (A) For the purpose of providing additional 67235  
general revenues for the transit authority and paying the expenses 67236  
of administering such levy, any transit authority as defined in 67237  
section 5741.01 of the Revised Code that levies a tax pursuant to 67238  
section 5739.023 of the Revised Code shall levy a tax at the same 67239  
rate levied pursuant to such section on the storage, use, or other 67240  
consumption in the territory of the transit authority of the 67241  
following: 67242

(1) Motor vehicles ~~acquired on or after June 29, 1974,~~ and 67243  
watercraft and outboard motors required to be titled in the county 67244  
pursuant to Chapter 1548. of the Revised Code and acquired ~~on or~~ 67245  
~~after April 1, 1990,~~ by a transaction subject to the tax imposed 67246  
by section 5739.02 of the Revised Code; 67247

(2) In addition to the tax imposed by section 5741.02 of the 67248  
Revised Code, tangible personal property and services subject to 67249  
the tax levied by this state as provided in section 5741.02 of the 67250  
Revised Code, and tangible personal property and services 67251  
purchased in another county within this state by a transaction 67252  
subject to the tax imposed by section 5739.02 of the Revised Code. 67253

The tax shall be in effect at the same time and at the same 67254  
rate and shall be levied pursuant to the resolution of the 67255



legislative authority of the transit authority levying a sales tax 67256  
pursuant to section 5739.023 of the Revised Code. 67257

(B) The tax levied pursuant to this section on the storage, 67258  
use, or other consumption of tangible personal property and on the 67259  
benefit of a service realized shall be in addition to the tax 67260  
levied by section 5741.02 of the Revised Code and, except as 67261  
provided in division (D) of this section, any tax levied pursuant 67262  
to sections 5741.021 and 5741.023 of the Revised Code. 67263

(C) The additional tax levied by the authority shall be 67264  
collected pursuant to ~~the schedules in~~ section 5739.025 of the 67265  
Revised Code. 67266

(D) The tax levied pursuant to this section shall not be 67267  
applicable to any benefit of a service realized or to any storage, 67268  
use, or consumption of property not within the taxing power of a 67269  
transit authority under the constitution of the United States or 67270  
the constitution of this state, or to property or services on 67271  
which a tax levied by a county or transit authority pursuant to 67272  
this section or section 5739.021, 5739.023, 5739.026, 5741.021, or 67273  
5741.023 of the Revised Code has been paid, if the sum of the 67274  
taxes paid pursuant to those sections is equal to or greater than 67275  
the sum of the taxes due under this section and sections 5741.021 67276  
and 5741.023 of the Revised Code. If the sum of the taxes paid is 67277  
less than the sum of the taxes due under this section and sections 67278  
5741.021 and 5741.023 of the Revised Code, the amount of tax paid 67279  
shall be credited against the amount of tax due. 67280

(E) The rate of a tax levied under this section is subject to 67281  
reduction under section 5739.028 of the Revised Code if a ballot 67282  
question is approved by voters pursuant to that section. 67283

**Sec. 5741.023.** (A) For the same purposes for which it has 67284  
imposed a tax under section 5739.026 of the Revised Code, any 67285  
county ~~which~~ that levies a tax pursuant to such section shall levy 67286

a tax at the same rate levied pursuant to such section on the 67287  
storage, use, or other consumption in the county of the following: 67288

(1) Motor vehicles, and watercraft and outboard motors 67289  
required to be titled in the county pursuant to Chapter 1548. of 67290  
the Revised Code, acquired by a transaction subject to the tax 67291  
imposed by section 5739.02 of the Revised Code; 67292

(2) In addition to the tax imposed by section 5741.02 of the 67293  
Revised Code, tangible personal property and services subject to 67294  
the tax levied by this state as provided in section 5741.02 of the 67295  
Revised Code, and tangible personal property and services 67296  
purchased in another county within this state by a transaction 67297  
subject to the tax imposed by section 5739.02 of the Revised Code. 67298

The tax shall be levied pursuant to a resolution of the board 67299  
of county commissioners, which shall be adopted in the same manner 67300  
as provided in section 5739.026 of the Revised Code. Such 67301  
resolution shall be adopted and shall become effective on the same 67302  
day as the resolution adopted by the board of county commissioners 67303  
levying a sales tax pursuant to such section and shall remain in 67304  
effect until such sales tax is repealed or expires. 67305

(B) The tax levied pursuant to this section shall be in 67306  
addition to the tax levied by section 5741.02 of the Revised Code 67307  
and, except as provided in division (D) of this section, any tax 67308  
levied pursuant to sections 5741.021 and 5741.022 of the Revised 67309  
Code. 67310

(C) The additional tax levied by the county shall be 67311  
collected pursuant to ~~the schedules in~~ section 5739.025 of the 67312  
Revised Code. 67313

(D) The tax levied pursuant to this section shall not be 67314  
applicable to any benefit of a service realized or to any storage, 67315  
use, or consumption of property not within the taxing power of a 67316  
county under the constitution of the United States or the 67317

constitution of this state, or to property or services on which 67318  
tax levied by a county or transit authority pursuant to this 67319  
section or section 5739.021, 5739.023, 5739.026, 5741.021, or 67320  
5741.022 of the Revised Code has been paid, if the sum of the 67321  
taxes paid pursuant to those sections is equal to or greater than 67322  
the sum of the taxes due under this section and sections 5741.021 67323  
and 5741.022 of the Revised Code. If the sum of the taxes paid is 67324  
less than the sum of the taxes due under this section and sections 67325  
5741.021 and 5741.022 of the Revised Code, the amount of tax paid 67326  
shall be credited against the amount of tax due. 67327

**Sec. 5741.121.** (A) If the total amount of tax required to be 67328  
paid by a seller or consumer under section 5741.12 of the Revised 67329  
Code for any year ~~indicated in the following schedule~~ equals or 67330  
~~exceeds the amount prescribed for that year in the schedule~~ 67331  
seventy-five thousand dollars, the seller or consumer shall remit 67332  
each monthly tax payment in the second ensuing and each succeeding 67333  
year by electronic funds transfer as prescribed by division (B) of 67334  
this section. 67335

Year	1992	<del>1993 through 1999</del>	<del>2000 and thereafter</del>	
Tax payment	\$1,200,000	\$600,000	\$60,000	67337

If a seller's or consumer's tax payment for each of two 67338  
consecutive years ~~beginning with 2000~~ is less than ~~sixty~~ 67339  
seventy-five thousand dollars, the seller or consumer is relieved 67340  
of the requirement to remit taxes by electronic funds transfer for 67341  
the year that next follows the second of the consecutive years in 67342  
which the tax payment is less than ~~sixty thousand dollars~~ that 67343  
amount, and is relieved of that requirement for each succeeding 67344  
year, unless the tax payment in a subsequent year equals or 67345  
exceeds ~~sixty~~ seventy-five thousand dollars. 67346

The tax commissioner shall notify each seller or consumer 67347  
required to remit taxes by electronic funds transfer of the 67348

seller's or consumer's obligation to do so, shall maintain an 67349  
updated list of those sellers and consumers, and shall timely 67350  
certify the list and any additions thereto or deletions therefrom 67351  
to the treasurer of state. Failure by the tax commissioner to 67352  
notify a seller or consumer subject to this section to remit taxes 67353  
by electronic funds transfer does not relieve the seller or 67354  
consumer of the obligation to remit taxes by electronic funds 67355  
transfer. 67356

(B) Sellers and consumers required by division (A) of this 67357  
section to remit payments by electronic funds transfer shall remit 67358  
such payments to the treasurer of state in the manner prescribed 67359  
by this section and rules adopted by the treasurer of state under 67360  
section 113.061 of the Revised Code, and on or before the 67361  
following dates: 67362

(1)(a) On or before the ~~eleventh~~ fifteenth day of each month, 67363  
a seller shall remit an amount equal to the taxes collected during 67364  
the first ~~seven~~ eleven days of the month. ~~On or before the~~ 67365  
~~eighteenth day of each month, a seller shall remit an amount equal~~ 67366  
~~to the taxes collected on the eighth through the fourteenth day of~~ 67367  
~~the month.~~ On or before the twenty-fifth day of each month, a 67368  
seller shall remit an amount equal to the taxes collected on the 67369  
~~fifteenth~~ twelfth through the twenty-first day of the month. 67370

(b) In lieu of remitting the actual amounts collected for the 67371  
periods specified in division (B)(1)(a) of this section, a seller 67372  
may, on or before each of the ~~eleventh, eighteenth,~~ fifteenth and 67373  
twenty-fifth days of each month, remit an amount equal to 67374  
~~one-fourth~~ thirty-seven and one-half per cent of the seller's 67375  
total tax liability for the same month in the preceding calendar 67376  
year. 67377

(2) On or before each of the ~~eleventh, eighteenth,~~ fifteenth 67378  
and twenty-fifth days of each month, a consumer shall remit an 67379  
amount equal to ~~one-fourth~~ thirty-seven and one-half per cent of 67380

the consumer's total tax liability for the same month in the 67381  
preceding calendar year. 67382

(3) On or before the twenty-third day of each month, a seller 67383  
shall report the taxes collected and a consumer shall report the 67384  
taxes due for the previous month and shall remit that amount, less 67385  
any amounts paid for that month as required by division (B)(1)(a) 67386  
or (b) or (B)(2) of this section. 67387

The payment of taxes by electronic funds transfer does not 67388  
affect a seller's or consumer's obligation to file the monthly 67389  
return as required under section 5741.12 of the Revised Code. 67390

(C) A seller or consumer required by this section to remit 67391  
taxes by electronic funds transfer may apply to the treasurer of 67392  
state in the manner prescribed by the treasurer of state to be 67393  
excused from that requirement. The treasurer of state may excuse 67394  
the seller or consumer from remittance by electronic funds 67395  
transfer for good cause shown for the period of time requested by 67396  
the seller or consumer or for a portion of that period. The 67397  
treasurer of state shall notify the tax commissioner and the 67398  
seller or consumer of the treasurer of state's decision as soon as 67399  
is practicable. 67400

(D)(1) If a seller or consumer that is required to remit 67401  
payments under division (B) of this section fails to make a 67402  
payment, the commissioner may impose an additional charge not to 67403  
exceed five per cent of that unpaid amount. 67404

(2) If a seller or consumer required by this section to remit 67405  
taxes by electronic funds transfer remits those taxes by some 67406  
means other than by electronic funds transfer as prescribed by the 67407  
rules adopted by the treasurer of state, and the treasurer of 67408  
state determines that such failure was not due to reasonable cause 67409  
or was due to willful neglect, the treasurer of state shall notify 67410  
the tax commissioner of the failure to remit by electronic funds 67411

transfer and shall provide the commissioner with any information 67412  
used in making that determination. The tax commissioner may impose 67413  
an additional charge not to exceed the lesser of five per cent of 67414  
the amount of the taxes required to be paid by electronic funds 67415  
transfer or five thousand dollars. 67416

(3) Any additional charge imposed under this section is in 67417  
addition to any other penalty or charge imposed under this 67418  
chapter, and shall be considered as revenue arising from taxes 67419  
imposed under this chapter. An additional charge may be collected 67420  
by assessment in the manner prescribed by section 5741.13 of the 67421  
Revised Code. The tax commissioner may waive all or a portion of 67422  
such a charge and may adopt rules governing such waiver. 67423

No additional charge shall be imposed under division (D)(2) 67424  
of this section against a seller or consumer that has been 67425  
notified of the obligation to remit taxes under this section and 67426  
that remits its first two tax payments after such notification by 67427  
some means other than electronic funds transfer. The additional 67428  
charge may be imposed upon the remittance of any subsequent tax 67429  
payment that the seller or consumer remits by some means other 67430  
than electronic funds transfer. 67431

Sec. 5741.25. If any corporation, limited liability company, 67432  
or business trust registered or required to be registered under 67433  
section 5741.17 of the Revised Code and required to file returns 67434  
and remit tax due to the state under this chapter fails for any 67435  
reason to make the filing or payment, any of its employees having 67436  
control or supervision of or charged with the responsibility of 67437  
filing returns and making payments, or any of its officers, 67438  
members, managers, or trustees who are responsible for the 67439  
execution of the corporation's, limited liability company's, or 67440  
business trust's fiscal responsibilities, shall be personally 67441  
liable for the failure. The dissolution, termination, or 67442

bankruptcy of a corporation, limited liability company, or 67443  
business trust shall not discharge a responsible officer's, 67444  
member's, manager's, employee's, or trustee's liability for a 67445  
failure of the corporation, limited liability company, or business 67446  
trust to file returns or remit tax due. The sum due for the 67447  
liability may be collected by assessment in the manner provided in 67448  
section 5741.11 or 5741.13 of the Revised Code. 67449

**Sec. 5743.05.** All stamps provided for by section 5743.03 of 67450  
the Revised Code, when procured by the tax commissioner, shall be 67451  
immediately delivered to the treasurer of state, who shall execute 67452  
a receipt therefor showing the number and aggregate face value of 67453  
each denomination received by the treasurer of state and any other 67454  
information that the commissioner requires to enforce the 67455  
collection and distribution of all taxes imposed under section 67456  
5743.024 or 5743.026 of the Revised Code, and deliver the receipt 67457  
to the commissioner. The treasurer of state shall sell the stamps 67458  
and, on the fifth day of each month, make a report showing all 67459  
sales made during the preceding month, with the names of 67460  
purchasers, the number of each denomination, the aggregate face 67461  
value purchased by each, and any other information as the 67462  
commissioner requires to enforce the collection and distribution 67463  
of all taxes imposed under section 5743.024 of the Revised Code, 67464  
and deliver it to the commissioner. The treasurer of state shall 67465  
be accountable for all stamps received and unsold. The stamps 67466  
shall be sold and accounted for at their face value, except the 67467  
commissioner shall, by rule certified to the treasurer of state, 67468  
authorize the sale of stamps and meter impressions to wholesale or 67469  
retail dealers in this state, or to wholesale dealers outside this 67470  
state, at a discount of not less than one and eight-tenths per 67471  
cent or more than ten per cent of their face value, as a 67472  
commission for affixing and canceling the stamps or meter 67473  
impressions. 67474

The commissioner, by rule certified to the treasurer of 67475  
state, shall authorize the delivery of stamps and meter 67476  
impressions to wholesale and retail dealers in this state and to 67477  
wholesale dealers outside this state on credit ~~when the purchaser~~ 67478  
~~files.~~ If such a dealer has not been in good credit standing with 67479  
this state for five consecutive years preceding the purchase, the 67480  
tax commissioner shall require the dealer to file with the 67481  
commissioner a bond to the state in the amount and in the form 67482  
prescribed by the commissioner, ~~and~~ with surety to the 67483  
satisfaction of the ~~treasurer of state~~ commissioner, conditioned 67484  
on payment to the treasurer of state within thirty days for stamps 67485  
or meter impressions delivered within that time. If such a dealer 67486  
has been in good credit standing with this state for five 67487  
consecutive years preceding the purchase, the tax commissioner 67488  
shall not require that the dealer file such a bond but shall 67489  
require payment for the stamps and meter impressions within thirty 67490  
days after purchase of the stamps and meter impressions. Stamps 67491  
and meter impressions sold to a dealer not required to file a bond 67492  
shall be sold at face value. The maximum amount that may be sold 67493  
on credit to a dealer not required to file a bond shall equal one 67494  
hundred ten per cent of the dealer's average monthly purchases 67495  
over the preceding calendar year. The maximum amount shall be 67496  
adjusted to reflect any changes in the tax rate and may be 67497  
adjusted, upon application to the tax commissioner by the dealer, 67498  
to reflect changes in the business operations of the dealer. The 67499  
maximum amount shall be applicable to the period of July through 67500  
April. Payment by a dealer not required to file a bond shall be 67501  
remitted by electronic funds transfer as prescribed by section 67502  
5743.051 of the Revised Code. If a dealer not required to file a 67503  
bond fails to make the payment in full within the thirty-day 67504  
period, the treasurer of state shall not thereafter sell stamps or 67505  
meter impressions to that dealer until the dealer pays the 67506  
outstanding amount, including penalty and interest on that amount 67507



as prescribed in this chapter, and the commissioner thereafter may 67508  
require the dealer to file a bond until the dealer is restored to 67509  
good standing. The commissioner shall limit delivery of stamps and 67510  
meter impressions on credit to the period running from the first 67511  
day of July of the fiscal year until the first day of the 67512  
following May. Any discount allowed as a commission for affixing 67513  
and canceling stamps or meter impressions shall be allowed with 67514  
respect to sales of stamps and meter impressions on credit. 67515

The treasurer of state shall redeem and pay for any 67516  
destroyed, unused, or spoiled tax stamps and any unused meter 67517  
impressions at their net value, and shall refund to wholesale 67518  
dealers the net amount of state and county taxes paid erroneously 67519  
or paid on cigarettes that have been sold in interstate or foreign 67520  
commerce or that have become unsalable, and the net amount of 67521  
county taxes that were paid on cigarettes that have been sold at 67522  
retail or for retail sale outside a taxing county. 67523

An application for a refund of tax shall be filed with the 67524  
tax commissioner, on the form prescribed by the commissioner for 67525  
that purpose, within three years from the date the tax stamps are 67526  
destroyed or spoiled, from the date of the erroneous payment, or 67527  
from the date that cigarettes on which taxes have been paid have 67528  
been sold in interstate or foreign commerce or have become 67529  
unsalable. 67530

On the filing of the application, the commissioner shall 67531  
determine the amount of refund to which the applicant is entitled, 67532  
payable from receipts of the state tax, and, if applicable, 67533  
payable from receipts of a county tax . If the amount is less than 67534  
that claimed, the ~~commission~~ commissioner shall certify the amount 67535  
to the director of budget and management and treasurer of state 67536  
for payment from the tax refund fund created by section 5703.052 67537  
of the Revised Code. If the amount is less than that claimed, the 67538  
commissioner shall proceed in accordance with section 5703.70 of 67539

the Revised Code. 67540

If a refund is granted for payment of an illegal or erroneous 67541  
assessment issued by the department, the refund shall include 67542  
interest on the amount of the refund from the date of the 67543  
overpayment. The interest shall be computed at the rate per annum 67544  
prescribed by section 5703.47 of the Revised Code. 67545

Sec. 5743.051. This section applies to any wholesale or 67546  
retail cigarette dealer required by section 5743.05 of the Revised 67547  
Code to remit payment for tax stamps and meter impressions by 67548  
electronic funds transfer. The tax commissioner shall notify each 67549  
dealer of the dealer's obligation to do so and shall maintain an 67550  
updated list of those dealers. Failure by the tax commissioner to 67551  
notify a dealer subject to this section to remit taxes by 67552  
electronic funds transfer does not relieve the dealer of its 67553  
obligation to remit taxes by electronic funds transfer. 67554

A dealer required to remit payments by electronic funds 67555  
transfer shall remit such payments to the treasurer of state in 67556  
the manner prescribed by rules adopted by the treasurer of state 67557  
under section 113.061 of the Revised Code and within the time 67558  
prescribed for such a dealer by section 5743.05 of the Revised 67559  
Code. 67560

A dealer required to remit taxes by electronic funds transfer 67561  
may apply to the tax commissioner in the manner prescribed by the 67562  
tax commissioner to be excused from that requirement. The tax 67563  
commissioner may excuse the dealer from remittance by electronic 67564  
funds transfer for good cause shown for the period of time 67565  
requested by the dealer or for a portion of that period. 67566

If a dealer required to remit taxes by electronic funds 67567  
transfer remits those taxes by some other means, the treasurer of 67568  
state shall notify the tax commissioner of the failure to remit by 67569  
electronic funds transfer. If the tax commissioner determines that 67570

such failure was not due to reasonable cause or was due to willful neglect, the tax commissioner may collect an additional charge by assessment in the manner prescribed by section 5743.081 of the Revised Code. The additional charge shall equal five per cent of the amount of the taxes required to be paid by electronic funds transfer but shall not exceed five thousand dollars. Any additional charge assessed under this section is in addition to any other penalty or charge imposed under this chapter and shall be considered as revenue arising from taxes imposed under this chapter. The tax commissioner may abate all or a portion of such a charge and may adopt rules governing such remissions.

No additional charge shall be assessed under this section against a dealer that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be assessed upon the remittance of any subsequent tax payment that the dealer remits by some means other than electronic funds transfer.

**Sec. 5743.21.** (A) No person shall affix a stamp required by section 5743.03 of the Revised Code to any package that:

(1) Bears any label or notice prescribed by the United States to identify cigarettes exempt from taxation by the United States pursuant to section 5704(b) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 5704(b), including any notice or label described in 27 C.F.R. 290.185;

(2) Is not labeled in conformity with the "Federal Cigarette Labeling and Advertising Act," 79 Stat. 282, 15 U.S.C.A. 1331 (1965), or any other federal requirement for the placement of labels, warnings, or other information applicable to packages of cigarettes intended for domestic consumption;

(3) Has been altered by anyone other than the manufacturer or

a person authorized by the manufacturer, including by the 67602  
placement of a sticker to cover information on or add information 67603  
to the package; 67604

(4) Has been imported or brought into the United States after 67605  
January 1, 2000, in violation of section 5754 of the "Internal 67606  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 5754, or 67607  
regulations adopted under that section; 67608

(5) Is produced by a tobacco product manufacturer or is part 67609  
of a brand family that is not included in the directory 67610  
established under section 1346.05 of the Revised Code. 67611

(B) No person shall sell or offer to sell any roll-your-own 67612  
tobacco to any person in this state if the roll-your-own tobacco 67613  
is not included in the directory established under section 1346.05 67614  
of the Revised Code. Any roll-your-own tobacco in the possession 67615  
of a retail dealer in this state shall be prima facie evidence of 67616  
offering to sell to a person in this state. 67617

(C) Whenever the tax commissioner discovers any packages to 67618  
which stamps have been affixed in violation of this section, or 67619  
any roll-your-own tobacco sold or offered for sale in violation of 67620  
this section, the tax commissioner may seize the packages or 67621  
roll-your-own tobacco, which shall ~~thereupon~~ be forfeited to the 67622  
state, and shall order ~~their~~ the destruction of the packages or 67623  
roll-your-own tobacco, provided that the seizure and destruction 67624  
shall not exempt any person from prosecution or from the fine or 67625  
imprisonment provided for the violation of this section. 67626

(D) As used in this section, "roll-your-own" has the same 67627  
meaning as in section 1346.01 of the Revised Code, and "tobacco 67628  
product manufacturer" and "brand family" have the same meanings as 67629  
in section 1346.04 of the Revised Code. 67630

**Sec. 5743.45.** (A) As used in this section, "felony" has the 67631

same meaning as in section 109.511 of the Revised Code. 67632

(B) For purposes of enforcing this chapter and Chapters 67633  
5728., 5735., 5739., 5741., and 5747. of the Revised Code and 67634  
subject to division (C) of this section, the tax commissioner, by 67635  
journal entry, may delegate any investigation powers of the 67636  
commissioner to an employee of the department of taxation who has 67637  
been certified by the Ohio peace officer training commission and 67638  
who is engaged in the enforcement of those chapters. A separate 67639  
journal entry shall be entered for each employee to whom that 67640  
power is delegated. Each journal entry shall be a matter of public 67641  
record and shall be maintained in an administrative portion of the 67642  
journal as provided for in division (L) of section 5703.05 of the 67643  
Revised Code. When that journal entry is completed, the employee 67644  
to whom it pertains, while engaged within the scope of the 67645  
employee's duties in enforcing the provisions of this chapter or 67646  
Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, 67647  
has the power of a police officer to carry concealed weapons, make 67648  
arrests, and obtain warrants for violations of any provision in 67649  
those chapters. The commissioner, at any time, may suspend or 67650  
revoke ~~that~~ the commissioner's delegation by journal entry. No 67651  
employee of the department shall divulge any information acquired 67652  
as a result of an investigation pursuant to this chapter or 67653  
Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, 67654  
except as may be required by the commissioner or a court. 67655

(C)(1) The tax commissioner shall not delegate any 67656  
investigation powers to an employee of the department of taxation 67657  
pursuant to division (B) of this section on a permanent basis, on 67658  
a temporary basis, for a probationary term, or on other than a 67659  
permanent basis if the employee previously has been convicted of 67660  
or has pleaded guilty to a felony. 67661

(2)(a) The tax commissioner shall revoke the delegation of 67662  
investigation powers to an employee to whom the delegation was 67663

made pursuant to division (B) of this section if that employee 67664  
does either of the following: 67665

(i) Pleads guilty to a felony; 67666

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 67667  
plea agreement as provided in division (D) of section 2929.29 of 67668  
the Revised Code in which the employee agrees to surrender the 67669  
certificate awarded to that employee under section 109.77 of the 67670  
Revised Code. 67671

(b) The tax commissioner shall suspend the delegation of 67672  
investigation powers to an employee to whom the delegation was 67673  
made pursuant to division (B) of this section if that employee is 67674  
convicted, after trial, of a felony. If the employee files an 67675  
appeal from that conviction and the conviction is upheld by the 67676  
highest court to which the appeal is taken or if the employee does 67677  
not file a timely appeal, the commissioner shall revoke the 67678  
delegation of investigation powers to that employee. If the 67679  
employee files an appeal that results in that employee's acquittal 67680  
of the felony or conviction of a misdemeanor, or in the dismissal 67681  
of the felony charge against that employee, the commissioner shall 67682  
reinstate the delegation of investigation powers to that employee. 67683  
The suspension, revocation, and reinstatement of the delegation of 67684  
investigation powers to an employee under division (C)(2) of this 67685  
section shall be made by journal entry pursuant to division (B) of 67686  
this section. An employee to whom the delegation of investigation 67687  
powers is reinstated under division (C)(2)(b) of this section 67688  
shall not receive any back pay for the exercise of those 67689  
investigation powers unless that employee's conviction of the 67690  
felony was reversed on appeal, or the felony charge was dismissed, 67691  
because the court found insufficient evidence to convict the 67692  
employee of the felony. 67693

(3) Division (C) of this section does not apply regarding an 67694  
offense that was committed prior to January 1, 1997. 67695

(4) The suspension or revocation of the delegation of investigation powers to an employee under division (C)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

**Sec. 5745.01.** As used in this chapter:

(A) "Electric company," ~~and~~ "combined company," and "telephone company," have the same meanings as in section 5727.01 of the Revised Code, except "telephone company" does not include a non profit corporation.

(B) "Electric light company" has the same meaning as in section 4928.01 of the Revised Code, and includes the activities of a combined company as an electric company, but excludes nonprofit companies and municipal corporations.

(C) "Taxpayer" means ~~an~~ either of the following:

(1) An electric light company subject to taxation by a municipal corporation in this state for a taxable year, excluding an electric light company that is not an electric company or a combined company and for which an election made under section 5745.031 of the Revised Code is not in effect with respect to the taxable year. If such a company is a qualified subchapter S subsidiary as defined in section 1361 of the Internal Revenue Code or a disregarded entity, the company's parent S corporation or owner is the taxpayer for the purposes of this chapter and is hereby deemed to have nexus with this state under the Constitution of the United States for the purposes of this chapter.

(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. 67726  
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(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. 67729  
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(E) "Taxable year" of a taxpayer is the taxpayer's taxable year for federal income tax purposes. 67733  
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(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. 67735  
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(G) "Adjusted federal taxable income" means federal taxable income adjusted as follows: 67739  
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(1) Deduct intangible income as defined in section 718.01 of the Revised Code to the extent included in federal taxable income; 67741  
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(2) Add expenses incurred in the production of such intangible income; 67743  
67744

(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 amount of the book-tax ~~differential~~ difference for that qualifying asset if the book-tax ~~differential~~ difference is less than zero. 67745  
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The adjustments provided in division (G)(3) of this section are 67754  
subject to divisions (B)(3), (4), and (5) of section 5733.0510 of 67755  
the Revised Code to the extent those divisions apply to the 67756



adjustments in that section for the taxable year. A taxpayer shall 67757  
not deduct or add any amount under division (G)(3) of this section 67758  
with respect to a qualifying asset the sale, exchange, or other 67759  
disposition of which resulted in the recognition of a gain or loss 67760  
that the taxpayer deducted or added, respectively, under division 67761  
(G)(1) or (2) of this section. 67762

For the purposes of division (G)(3) of this section, "~~net~~ 67763  
~~income~~" has the same meaning as in section 5733.04 of the Revised 67764  
Code, and "book-tax differential difference," "qualifying 67765  
taxpayer," "qualifying asset," and "qualifying taxable event" have 67766  
the same meanings as in section 5733.0510 of the Revised Code. 67767

(4) Add the amounts described in section 5745.042 of the 67768  
Revised Code. 67769

(5) If the taxpayer is not a C corporation and is not an 67770  
individual, the taxpayer shall compute "adjusted federal taxable 67771  
income" as if the taxpayer were a C corporation, but with respect 67772  
to each owner-employee of the taxpayer, amounts paid or accrued to 67773  
a qualified self-employed retirement plan and amounts paid or 67774  
accrued to or for health insurance or life insurance shall not be 67775  
allowed as a deduction. Nothing in this division shall be 67776  
construed as allowing the taxpayer to deduct any amount more than 67777  
once. 67778

(6) Add or deduct the amounts described in section 5733.0511 67779  
of the Revised Code for qualifying telephone company taxpayers. 67780

(H) "Internal Revenue Code" means the "Internal Revenue Code 67781  
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as ~~amended~~ it existed on 67782  
December 31, 2001. 67783

(I) "Ohio net income" means the amount determined under 67784  
division (B) of section 5745.02 of the Revised Code. 67785

**Sec. 5745.02.** (A) The annual report filed under section 67786

5745.03 of the Revised Code determines a taxpayer's Ohio net 67787  
income and the portion of Ohio net income to be apportioned to a 67788  
municipal corporation. 67789

(B) A taxpayer's Ohio net income is determined by multiplying 67790  
the taxpayer's adjusted federal taxable income by the sum of the 67791  
property factor multiplied by one-third, the payroll factor 67792  
multiplied by one-third, and the sales factor multiplied by 67793  
one-third. If the denominator of one of the factors is zero, the 67794  
remaining two factors each shall be multiplied by one-half instead 67795  
of one-third; if the denominator of two of the factors is zero, 67796  
the remaining factor shall be multiplied by one. The property, 67797  
payroll, and sales factors shall be determined in the manner 67798  
prescribed by divisions (B)(1), (2), and (3) of this section. 67799

(1) The property factor is a fraction, the numerator of which 67800  
is the average value of the taxpayer's real and tangible personal 67801  
property owned or rented, and used in business in this state 67802  
during the taxable year, and the denominator of which is the 67803  
average value of all the taxpayer's real and tangible personal 67804  
property owned or rented, and used in business everywhere during 67805  
such year. Property owned by the taxpayer is valued at its 67806  
original cost. Property rented by the taxpayer is valued at eight 67807  
times the net annual rental rate. "Net annual rental rate" means 67808  
the annual rental rate paid by the taxpayer less any annual rental 67809  
rate received by the taxpayer from subrentals. The average value 67810  
of property shall be determined by averaging the values at the 67811  
beginning and the end of the taxable year, but the tax 67812  
commissioner may require the averaging of monthly values during 67813  
the taxable year, if reasonably required to reflect properly the 67814  
average value of the taxpayer's property. 67815

(2) The payroll factor is a fraction, the numerator of which 67816  
is the total amount paid in this state during the taxable year by 67817  
the taxpayer for compensation, and the denominator of which is the 67818

total compensation paid everywhere by the taxpayer during such 67819  
year. Compensation means any form of remuneration paid to an 67820  
employee for personal services. Compensation is paid in this state 67821  
if: (a) the recipient's service is performed entirely within this 67822  
state, (b) the recipient's service is performed both within and 67823  
without this state, but the service performed without this state 67824  
is incidental to the recipient's service within this state, or (c) 67825  
some of the service is performed within this state and either the 67826  
base of operations, or if there is no base of operations, the 67827  
place from which the service is directed or controlled is within 67828  
this state, or the base of operations or the place from which the 67829  
service is directed or controlled is not in any state in which 67830  
some part of the service is performed, but the recipient's 67831  
residence is in this state. 67832

(3) The sales factor is a fraction, the numerator of which is 67833  
the total sales in this state by the taxpayer during the taxable 67834  
year, and the denominator of which is the total sales by the 67835  
taxpayer everywhere during such year. Sales of electricity shall 67836  
be situated to this state in the manner provided under section 67837  
5733.059 of the Revised Code. In determining the numerator and 67838  
denominator of the sales factor, receipts from the sale or other 67839  
disposal of a capital asset or an asset described in section 1231 67840  
of the Internal Revenue Code shall be eliminated. Also, in 67841  
determining the numerator and denominator of the sales factor, in 67842  
the case of a reporting taxpayer owning at least eighty per cent 67843  
of the issued and outstanding common stock of one or more 67844  
insurance companies or public utilities, except an electric 67845  
company, a combined company, or a telephone company, or owning at 67846  
least twenty-five per cent of the issued and outstanding common 67847  
stock of one or more financial institutions, receipts received by 67848  
the reporting taxpayer from such utilities, insurance companies, 67849  
and financial institutions shall be eliminated. 67850

For the purpose of division (B)(3) of this section, sales of tangible personal property are in this state where such property is received in this state by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered as the place at which such property is received by the purchaser. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.

Sales, other than sales of electricity or tangible personal property, are in this state if either the income-producing activity is performed solely in this state, or the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed within this state than in any other state, based on costs of performance.

For the purposes of division (B)(3) of this section, the tax commissioner may adopt rules to apportion sales within this state.

(C) The portion of a taxpayer's Ohio net income taxable by each municipal corporation imposing an income tax shall be determined by multiplying the taxpayer's Ohio net income by the sum of the municipal property factor multiplied by one-third, the municipal payroll factor multiplied by one-third, and the municipal sales factor multiplied by one-third, and subtracting from the product so obtained any "municipal net operating loss carryforward from prior taxable years." If the denominator of one of the factors is zero, the remaining two factors each shall be

multiplied by one-half instead of one-third; if the denominator of 67883  
two of the factors is zero, the remaining factor shall be 67884  
multiplied by one. In calculating the "municipal net operating 67885  
loss carryforward from prior taxable years" for each municipal 67886  
corporation, net operating losses are apportioned in and out of a 67887  
municipal corporation for the taxable year in which the net 67888  
operating loss occurs in the same manner that positive net income 67889  
would have been so apportioned. Any net operating loss for a 67890  
municipal corporation may be applied to subsequent net income in 67891  
that municipal corporation to reduce that income to zero or until 67892  
the net operating loss has been fully used as a deduction. The 67893  
unused portion of net operating losses for each taxable year 67894  
apportioned to a municipal corporation may only be applied against 67895  
the income apportioned to that municipal corporation for five 67896  
subsequent taxable years. Net operating losses occurring in 67897  
taxable years ending before 2002 may not be subtracted under this 67898  
section. 67899

A taxpayer's municipal property, municipal payroll, and 67900  
municipal sales factors for a municipal corporation shall be 67901  
determined as provided in divisions (C)(1), (2), and (3) of this 67902  
section. 67903

(1) The municipal property factor is the quotient obtained by 67904  
dividing (a) the average value of real and tangible personal 67905  
property owned or rented by the taxpayer and used in business in 67906  
the municipal corporation during the taxable year by (b) the 67907  
average value of all of the taxpayer's real and tangible personal 67908  
property owned or rented and used in business during that taxable 67909  
year in this state. The value and average value of such property 67910  
shall be determined in the same manner provided in division (B)(1) 67911  
of this section. 67912

(2) The municipal payroll factor is the quotient obtained by 67913  
dividing (a) the total amount of compensation earned in the 67914

municipal corporation by the taxpayer's employees during the 67915  
taxable year for services performed for the taxpayer and that is 67916  
subject to income tax withholding by the municipal corporation by 67917  
(b) the total amount of compensation paid by the taxpayer to its 67918  
employees in this state during the taxable year. Compensation has 67919  
the same meaning as in division (B)(2) of this section. 67920

(3) The municipal sales factor is a fraction, the numerator 67921  
of which is the taxpayer's total sales in a municipal corporation 67922  
during the taxable year, and the denominator of which is the 67923  
taxpayer's total sales in this state during such year. 67924

For the purpose of division (C)(3) of this section, sales of 67925  
tangible personal property are in the municipal corporation where 67926  
such property is received in the municipal corporation by the 67927  
purchaser. Sales of electricity directly to the consumer, as 67928  
defined in section 5733.059 of the Revised Code, shall be 67929  
considered sales of tangible personal property. In the case of the 67930  
delivery of tangible personal property by common carrier or by 67931  
other means of transportation, the place at which such property 67932  
ultimately is received after all transportation has been completed 67933  
shall be considered as the place at which the property is received 67934  
by the purchaser. Direct delivery in the municipal corporation, 67935  
other than for purposes of transportation, to a person or firm 67936  
designated by a purchaser constitutes delivery to the purchaser in 67937  
that municipal corporation, and direct delivery outside the 67938  
municipal corporation to a person or firm designated by a 67939  
purchaser does not constitute delivery to the purchaser in that 67940  
municipal corporation, regardless of where title passes or other 67941  
conditions of sale. Sales, other than sales of tangible personal 67942  
property, are in the municipal corporation if either: 67943

(a) The income-producing activity is performed solely in the 67944  
municipal corporation; 67945

(b) The income-producing activity is performed both within 67946

and without the municipal corporation and a greater proportion of 67947  
the income-producing activity is performed within that municipal 67948  
corporation than any other location in this state, based on costs 67949  
of performance. 67950

For the purposes of division (C)(3) of this section, the tax 67951  
commissioner may adopt rules to apportion sales within each 67952  
municipal corporation. 67953

(D) If a taxpayer is a combined company as defined in section 67954  
5727.01 of the Revised Code, the municipal property, payroll, and 67955  
sales factors under division (C) of this section shall be adjusted 67956  
as follows: 67957

(1) The numerator of the municipal property factor shall 67958  
include only the value, as determined under division (C)(1) of 67959  
this section, of the company's real and tangible property in the 67960  
municipal corporation attributed to the company's activity as an 67961  
electric company using the same methodology prescribed under 67962  
section 5727.03 of the Revised Code for taxable tangible personal 67963  
property. 67964

(2) The numerator of the municipal payroll factor shall 67965  
include only compensation paid in the municipal corporation by the 67966  
company to its employees for personal services rendered in the 67967  
company's activity as an electric company. 67968

(3) The numerator of the municipal sales factor shall include 67969  
only the sales of tangible personal property and services, as 67970  
determined under division (C)(3) of this section, made in the 67971  
municipal corporation in the course of the company's activity as 67972  
an electric company. 67973

(E)(1) If the provisions for apportioning adjusted federal 67974  
taxable income or Ohio net income under ~~division~~ divisions (B), 67975  
(C), and (D) of this section do not fairly represent business 67976  
activity in this state or among municipal corporations, the tax 67977

commissioner may adopt rules for apportioning such income by an 67978  
alternative method that fairly represents business activity in 67979  
this state or among municipal corporations. 67980

(2) If any of the factors determined under division (B), (C), 67981  
or (D) of this section does not fairly represent the extent of a 67982  
taxpayer's business activity in this state or among municipal 67983  
corporations, the taxpayer may request, or the tax commissioner 67984  
may require, that the taxpayer's adjusted federal taxable income 67985  
or Ohio net income be determined by an alternative method, 67986  
including any of the alternative methods enumerated in division 67987  
(B)(2)(d) of section 5733.05 of the Revised Code. A taxpayer 67988  
requesting an alternative method shall make the request in writing 67989  
to the tax commissioner either with the annual report, a timely 67990  
filed amended report, or a timely filed petition for reassessment. 67991  
When the tax commissioner requires or permits an alternative 67992  
method under division (E)(2) of this section, the tax commissioner 67993  
shall cause a written notice to that effect to be delivered to any 67994  
municipal corporation that would be affected by application of the 67995  
alternative method. Nothing in this division shall be construed to 67996  
extend any statute of limitations under this chapter. 67997

(F)(1) The tax commissioner may adopt rules providing for the 67998  
combination of adjusted federal taxable incomes of taxpayers 67999  
satisfying the ownership or control requirements of section 68000  
5733.052 of the Revised Code if the tax commissioner finds that 68001  
such combinations are necessary to properly reflect adjusted 68002  
federal taxable income, Ohio net income, or the portion of Ohio 68003  
net income to be taxable by municipal corporations. 68004

(2) A taxpayer satisfying the ownership or control 68005  
requirements of section 5733.052 of the Revised Code with respect 68006  
to one or more other taxpayers may not combine their adjusted 68007  
federal taxable incomes for the purposes of this section unless 68008  
rules are adopted under division (F)(1) of this section allowing 68009



such a combination or the tax commissioner finds that such a 68010  
combination is necessary to properly reflect the taxpayers' 68011  
adjusted federal taxable incomes, Ohio net incomes, or the portion 68012  
of Ohio net incomes to be subject to taxation within a municipal 68013  
corporation. 68014

(G) The tax commissioner may adopt rules providing for 68015  
alternative apportionment methods for a telephone company. 68016

**Sec. 5745.04.** (A) As used in this section, "combined tax 68017  
liability" means the total of a taxpayer's income tax liabilities 68018  
to all municipal corporations in this state for a taxable year. 68019

(B) Beginning with its taxable year beginning in 2003, each 68020  
taxpayer shall file a declaration of estimated tax report with, 68021  
and remit estimated taxes to, the tax commissioner, payable to the 68022  
treasurer of state, at the times and in the amounts prescribed in 68023  
divisions (B)(1) to (4) of this section. This division also 68024  
applies to a taxpayer having a taxable year consisting of fewer 68025  
than twelve months, at least one of which is in 2002, that ends 68026  
before January 1, 2003. The first taxable year a taxpayer is 68027  
subject to this chapter, the estimated taxes the taxpayer is 68028  
required to remit under this section shall be based solely on the 68029  
current taxable year and not on the liability for the preceding 68030  
taxable year. 68031

(1) Not less than twenty-five per cent of the combined tax 68032  
liability for the preceding taxable year or twenty per cent of the 68033  
combined tax liability for the current taxable year shall have 68034  
been remitted not later than the fifteenth day of the fourth month 68035  
after the end of the preceding taxable year. 68036

(2) Not less than fifty per cent of the combined tax 68037  
liability for the preceding taxable year or forty per cent of the 68038  
combined tax liability for the current taxable year shall have 68039  
been remitted not later than the fifteenth day of the sixth month 68040

after the end of the preceding taxable year. 68041

(3) Not less than seventy-five per cent of the combined tax 68042  
liability for the preceding taxable year or sixty per cent of the 68043  
combined tax liability for the current taxable year shall have 68044  
been remitted not later than the fifteenth day of the ninth month 68045  
after the end of the preceding taxable year. 68046

(4) Not less than one hundred per cent of the combined tax 68047  
liability for the preceding taxable year or eighty per cent of the 68048  
combined tax liability for the current taxable year shall have 68049  
been remitted not later than the fifteenth day of the twelfth 68050  
month after the end of the preceding taxable year. 68051

(C) Each taxpayer shall report on the declaration of 68052  
estimated tax report the portion of the remittance that the 68053  
taxpayer estimates that it owes to each municipal corporation for 68054  
the taxable year. 68055

(D) Upon receiving a declaration of estimated tax report and 68056  
remittance of estimated taxes under this section, the tax 68057  
commissioner shall immediately forward to the treasurer of state 68058  
such remittance. The treasurer of state shall credit ninety-eight 68059  
and one-half per cent of the remittance to the municipal income 68060  
tax fund and credit the remainder to the municipal income tax 68061  
administrative fund. 68062

(E) If any remittance of estimated taxes is for one thousand 68063  
dollars or more, the taxpayer shall make the remittance by 68064  
electronic funds transfer as prescribed by section 5745.04 of the 68065  
Revised Code. 68066

(F) Notwithstanding section 5745.08 or 5745.09 of the Revised 68067  
Code, no penalty or interest shall be imposed on a taxpayer if the 68068  
declaration of estimated tax report is properly filed, and the 68069  
estimated tax is paid, within the time prescribed by division (B) 68070  
of this section. 68071

Sec. 5745.042. (A) As used in this section: 68072

(1) "Intangible expenses and costs" means expenses, losses, and costs for, related to, or in connection with, the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other direct or indirect disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income before operating loss deduction and special deductions for the taxable year under the Internal Revenue Code. Such expenses and costs include losses related to, or incurred in connection with, factoring transactions, discounting transactions, royalty, patent, technical, copyright, and licensing fees, and other similar expenses and costs. 68073  
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(2) "Interest expenses and costs" include amounts directly or indirectly allowed as deductions under section 163 of the Internal Revenue Code for purposes of determining taxable income. 68085  
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(3) "Related member" has the same meaning as in section 5733.042 of the Revised Code. 68088  
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(B) Except as otherwise provided in section 5745.044 of the Revised Code, for taxable years beginning on or after January 1, 2004, in computing adjusted federal taxable income under division (H)(4) of section 5745.01 of the Revised Code, a taxpayer shall add interest expenses and costs and intangible expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection with, one or more direct or indirect transactions with one or more related members. The taxpayer shall make the adjustment required under this division in accordance with the principles and concepts set forth in section 5733.057 of the Revised Code. 68090  
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(C)(1) Division (B) of this section does not apply to any 68101

portion of interest expenses and costs and intangible expenses and 68102  
costs for which the taxpayer can establish by a preponderance of 68103  
the evidence that: 68104

(a) The related member during the same taxable year directly 68105  
or indirectly paid, accrued, or incurred such portion to a person 68106  
who is not a related member, and during the six-year period 68107  
commencing three years prior to the first day of the taxpayer's 68108  
taxable year the person or the person's related member did not 68109  
pay, accrue, or incur all or any portion, amount, or similar 68110  
portion of such expenses or costs to the taxpayer or to any 68111  
related member of the taxpayer; and 68112

(b) The transaction giving rise to the interest expenses and 68113  
costs or the intangible expenses and costs between the taxpayer 68114  
and the related member did not have as a principal purpose the 68115  
avoidance of any portion of the tax due by the taxpayer. 68116

(2) A taxpayer shall not be required to make any adjustment 68117  
required under division (B) of this section if the increased tax, 68118  
if any, attributable to such adjustment would have been avoided 68119  
had the taxpayer, the related member, and any other related 68120  
members to whom the taxpayer's related member pays, accrues, or 68121  
incurs the expenses and costs had filed a consolidated municipal 68122  
income tax return. 68123

(D) If a taxpayer required to make an adjustment under 68124  
division (B) of this section fails to make the adjustment and pay 68125  
the additional tax, if any, attributable to such adjustment within 68126  
one year after the taxpayer files the municipal income tax report, 68127  
a penalty shall be imposed equal to twice the interest charged 68128  
under section 5745.07 of the Revised Code. The penalty imposed 68129  
under this division is in addition to all other interest, 68130  
penalties, and other charges imposed under this chapter. 68131

(E) The tax commissioner may waive, abate, modify, or refund, 68132

with interest, all or any portion of a penalty imposed under 68133  
division (D) of this section if the taxpayer establishes beyond a 68134  
reasonable doubt that any failure to fully comply with this 68135  
section was not an attempt to avoid any portion of the tax due 68136  
under this chapter. 68137

(F)(1) As used in this division, "tax difference" means the 68138  
difference between the tax imposed on a taxpayer under section 68139  
5733.06 of the Revised Code and the amount of tax attributable to 68140  
the adjustment required under division (B) of this section that 68141  
the taxpayer pays within one year from the date prescribed for 68142  
payment. 68143

(2) The penalty created under division (D) of this section 68144  
does not apply if the tax difference: 68145

(a) Is less than ten per cent of the tax imposed under this 68146  
chapter; and 68147

(b) Is less than fifty thousand dollars. 68148

(G) Nothing in this section shall be construed as requiring a 68149  
taxpayer to add interest expenses and costs and intangible 68150  
expenses and costs to federal taxable income more than once in any 68151  
taxable year. 68152

**Sec. 5745.044.** (A)(1) As used in this section, "federal 68153  
income tax return" does not include any return filed for purposes 68154  
of reporting withholding taxes, providing information rather than 68155  
reporting income tax liability, or claiming the benefits of a tax 68156  
treaty between the United States and another government. 68157

(2) "Federal income tax" does not include withholding taxes. 68158

(3) "Related member" has the same meaning as in section 68159  
5733.042 of the Revised Code. 68160

(B) The adjustments required under division (B) of section 68161  
5745.042 of the Revised Code for interest expenses and costs and 68162

intangible expenses and costs paid to a related member do not 68163  
apply to a C corporation for the taxable year if the C corporation 68164  
establishes all of the following by clear and convincing evidence: 68165

(1) The corporation paid the expenses and costs to the 68166  
related member either directly or through a related member that 68167  
did not charge the corporation a fee; 68168

(2) The expenses and costs were paid to a related member 68169  
that, for the six-year period beginning three years prior to the 68170  
payment, was not subject to federal income tax with respect to the 68171  
payment and was not required to file a federal income tax return 68172  
with the internal revenue service for purposes of reporting the 68173  
payment; 68174

(3) During the six-year period beginning three years prior to 68175  
the payment, the related member did not directly or indirectly 68176  
remit any portion of the payment to any other related member that 68177  
during any portion of the six-year period was subject to federal 68178  
income tax with respect to the payment and was required to file a 68179  
federal income tax return with the internal revenue service for 68180  
purposes of reporting the payment; 68181

(4) In calculating its federal income tax for the taxable 68182  
year in which the payment occurred, the corporation is allowed to 68183  
deduct the payment under an advanced pricing agreement between the 68184  
corporation and the internal revenue service, it has satisfied the 68185  
documentation requirements of sections 482 and 6662(e) of the 68186  
Internal Revenue Code, or it has complied with section 482 of the 68187  
Internal Revenue Code; and 68188

(5) The transaction giving rise to the payment did not have 68189  
as a principal purpose the avoidance of any portion of the tax due 68190  
under this chapter. 68191

(C) A corporation claiming that the adjustments required 68192  
under division (B) of section 5745.042 of the Revised Code do not 68193

apply to it must refute by clear and convincing evidence any 68194  
reasonable conclusion of the tax commissioner that any of the 68195  
doctrines set forth in section 5703.56 of the Revised Code should 68196  
apply. 68197

(D) If a corporation makes a payment to a related member and 68198  
the payment is processed or paid through another related member as 68199  
described in division (B)(1) of this section, this section applies 68200  
only to the corporation's pro rata share of the total payments 68201  
made by all such related members during the taxable year, unless 68202  
the corporation establishes by clear and convincing evidence that 68203  
its actual payment to the related member was more than its pro 68204  
rata share. 68205

(E) Any adjustments made by the internal revenue service with 68206  
respect to any related member of the corporation under an advanced 68207  
pricing agreement or section 482 of the Internal Revenue Code 68208  
shall be presumed to be adjustments properly attributed to the 68209  
corporation, unless the corporation establishes by clear and 68210  
convincing evidence that the adjustment should be attributed, in 68211  
whole or in part, to another person. 68212

(F) If any corporation claims the benefit provided under 68213  
division (B) of this section and is not entitled to such benefit, 68214  
any adjustment required by section 5745.042 of the Revised Code 68215  
shall be increased by an amount equal to twice the amount of the 68216  
adjustment, unless the adjustment was made under an advanced 68217  
pricing agreement. 68218

**Sec. 5747.02.** (A) For the purpose of providing revenue for 68219  
the support of schools and local government functions, to provide 68220  
relief to property taxpayers, to provide revenue for the general 68221  
revenue fund, and to meet the expenses of administering the tax 68222  
levied by this chapter, there is hereby levied on every 68223  
individual, trust, and estate residing in or earning or receiving 68224

income in this state, on every individual, trust, and estate		68225
earning or receiving lottery winnings, prizes, or awards pursuant		68226
to Chapter 3770. of the Revised Code, and on every individual,		68227
trust, and estate otherwise having nexus with or in this state		68228
under the Constitution of the United States, an annual tax		68229
measured in the case of individuals by Ohio adjusted gross income		68230
less an exemption for the taxpayer, the taxpayer's spouse, and		68231
each dependent as provided in section 5747.025 of the Revised		68232
Code; measured in the case of trusts by modified Ohio taxable		68233
income under division (D) of this section; and measured in the		68234
case of estates by Ohio taxable income. The tax imposed by this		68235
section on the balance thus obtained is hereby levied as follows:		68236
OHIO ADJUSTED GROSS INCOME LESS		68237
EXEMPTIONS (INDIVIDUALS)		
OR		68238
MODIFIED OHIO		68239
TAXABLE INCOME (TRUSTS)		68240
OR		68241
OHIO TAXABLE INCOME (ESTATES)	TAX	68242
\$5,000 or less	.743%	68243
More than \$5,000 but not more	\$37.15 plus 1.486% of the amount	68244
than \$10,000	in excess of \$5,000	
More than \$10,000 but not more	\$111.45 plus 2.972% of the	68245
than \$15,000	amount in excess of \$10,000	
More than \$15,000 but not more	\$260.05 plus 3.715% of the	68246
than \$20,000	amount in excess of \$15,000	
More than \$20,000 but not more	\$445.80 plus 4.457% of the	68247
than \$40,000	amount in excess of \$20,000	
More than \$40,000 but not more	\$1,337.20 plus 5.201% of the	68248
than \$80,000	amount in excess of \$40,000	
More than \$80,000 but not more	\$3,417.60 plus 5.943% of the	68249
than \$100,000	amount in excess of \$80,000	
More than \$100,000 but not more	\$4,606.20 plus 6.9% of the	68250



than \$200,000	amount in excess of \$100,000	
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	68251

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

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

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

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

(D) This division applies only to taxable years of a trust 68281  
beginning in 2002, 2003, or 2004. 68282

(1) The tax imposed by this section on a trust shall be 68283  
computed by multiplying the Ohio modified taxable income of the 68284  
trust by the rates prescribed by division (A) of this section. 68285

(2) A credit is allowed against the tax computed under 68286  
division (D) of this section equal to the lesser of (1) the tax 68287  
paid to another state or the District of Columbia on the trust's 68288  
modified nonbusiness income, other than the portion of the trust's 68289  
nonbusiness income that is qualifying investment income as defined 68290  
in section 5747.012 of the Revised Code, or (2) the effective tax 68291  
rate, based on modified Ohio taxable income, multiplied by the 68292  
trust's modified nonbusiness income other than the portion of 68293  
trust's nonbusiness income that is qualifying investment income. 68294  
The credit applies before any other applicable credits. 68295

(3) The credits enumerated in divisions (A)(1) to (13) of 68296  
section 5747.98 of the Revised Code do not apply to a trust 68297  
subject to this division. Any credits enumerated in other 68298  
divisions of section 5747.98 of the Revised Code apply to a trust 68299  
subject to this division. To the extent that the trust distributes 68300  
income for the taxable year for which a credit is available to the 68301  
trust, the credit shall be shared by the trust and its 68302  
beneficiaries. The tax commissioner and the trust shall be guided 68303  
by applicable regulations of the United States treasury regarding 68304  
the sharing of credits. 68305

(E) For the purposes of this section, "trust" means any trust 68306  
described in Subchapter J of Chapter 1 of the Internal Revenue 68307  
Code, excluding trusts that are not irrevocable as defined in 68308  
division (I)(3)(b) of section 5747.01 of the Revised Code and that 68309  
have no modified Ohio taxable income for the taxable year, 68310  
charitable remainder trusts, ~~qualified funeral trusts,~~ endowment 68311

and perpetual care trusts, qualified settlement trusts and funds, 68312  
designated settlement trusts and funds, and trusts exempted from 68313  
taxation under section 501(a) of the Internal Revenue Code. 68314

Sec. 5747.026. (A) For taxable years beginning on or after 68315  
January 1, 2002, a member of the national guard or a member of a 68316  
reserve component of the armed forces of the United States called 68317  
to active or other duty under operation Iraqi freedom may apply to 68318  
the tax commissioner for an extension for filing of the return and 68319  
payment of taxes required under Chapter 5747. of the Revised Code 68320  
during the period of the member's duty service and for sixty days 68321  
thereafter. The application shall be filed on or before the 68322  
sixtieth day after the member's duty terminates. An applicant 68323  
shall provide such evidence as the commissioner considers 68324  
necessary to demonstrate eligibility for the extension. 68325

(B)(1) If the commissioner determines that an applicant is 68326  
qualified for an extension under this section, the commissioner 68327  
shall enter into a contract with the applicant for the payment of 68328  
the tax in installments that begin on the sixty-first day after 68329  
the applicant's duty under operation Iraqi freedom terminates. 68330  
Except as provided in division (B)(3) of this section, the 68331  
commissioner may prescribe such contract terms as the commissioner 68332  
considers appropriate. 68333

(2) If the commissioner determines that an applicant is 68334  
qualified for an extension under this section, the applicant shall 68335  
not be required to file any return, report, or other tax document 68336  
before the sixty-first day after the applicant's duty under 68337  
operation Iraqi freedom terminates. 68338

(3) Taxes paid pursuant to a contract entered into under 68339  
division (B)(1) of this section are not delinquent. The tax 68340  
commissioner shall not require any payments of penalties or 68341  
interest in connection with such taxes. 68342

(C) The tax commissioner shall adopt rules necessary to 68343  
administer this section, including rules establishing the 68344  
following: 68345

(1) Forms and procedures by which applicants may apply for 68346  
extensions; 68347

(2) Criteria for eligibility; 68348

(3) A schedule for repayment of deferred taxes. 68349

**Sec. 5747.12.** If a person entitled to a refund under section 68350  
5747.11 or 5747.13 of the Revised Code is indebted to this state 68351  
for any tax, workers' compensation premium due under section 68352  
4123.35 of the Revised Code, unemployment compensation 68353  
contribution due under section 4141.25 of the Revised Code, or fee 68354  
administered by the tax commissioner that is paid to the state or 68355  
to the clerk of courts pursuant to section 4505.06 of the Revised 68356  
Code, or any charge, penalty, or interest arising from such a tax, 68357  
workers' compensation premium, unemployment compensation 68358  
contribution, or fee, the amount refundable may be applied in 68359  
satisfaction of the debt. If the amount refundable is less than 68360  
the amount of the debt, it may be applied in partial satisfaction 68361  
of the debt. If the amount refundable is greater than the amount 68362  
of the debt, the amount remaining after satisfaction of the debt 68363  
shall be refunded. If the person has more than one such debt, any 68364  
debt subject to section 5739.33 or division (G) of section 5747.07 68365  
of the Revised Code shall be satisfied first. This section applies 68366  
only to debts that have become final. 68367

The tax commissioner may, with the consent of the taxpayer, 68368  
provide for the crediting, against tax imposed under this chapter 68369  
or Chapter 5748. of the Revised Code and due for any taxable year, 68370  
of the amount of any refund due the taxpayer under this chapter or 68371  
Chapter 5748. of the Revised Code, as appropriate, for a preceding 68372

taxable year. 68373

**Sec. 5747.31.** (A) This section applies to an individual or 68374  
estate that is a proprietor or a pass-through entity investor. 68375

(B) A taxpayer described in division (A) of this section is 68376  
allowed a credit that shall be computed and claimed in the same 68377  
manner as the credit allowed to corporations in section 5733.33 of 68378  
the Revised Code. The taxpayer shall claim one-seventh of the 68379  
credit amount for the calendar year in which the new manufacturing 68380  
machinery and equipment is purchased for use in the county by the 68381  
taxpayer or partnership. One-seventh of the taxpayer credit amount 68382  
is allowed for each of the six ensuing taxable years. The taxpayer 68383  
shall claim the credit in the order required under section 5747.98 68384  
of the Revised Code. 68385

The taxpayer shall file with the department of development a 68386  
notice of intent to claim the credit in accordance with division 68387  
(E) of section 5733.33 of the Revised Code. 68388

(C)(1) A taxpayer described in division (A) of this section 68389  
is allowed a credit that shall be computed in the same manner as 68390  
the credit allowed to a corporation in section 5733.39 of the 68391  
Revised Code, with the following adjustments: 68392

(a) Substitute "taxable year" for "tax year" wherever "tax 68393  
year" appears in section 5733.39 of the Revised Code; 68394

(b) Substitute "5747.02" for "5733.06" wherever "5733.06" 68395  
appears in section 5733.39 of the Revised Code; 68396

(c) Substitute "5747.98" for "5733.98" wherever "5733.98" 68397  
appears in section 5733.39 of the Revised Code; 68398

(d) The credit allowed under division (C) of this section 68399  
shall be subject to the same disallowance for the carryover or 68400  
carryback of any unused credit as provided in division (C) of 68401  
section 5733.39 of the Revised Code. 68402

(2) Notwithstanding section ~~5747.131~~ 5703.56 of the Revised Code to the contrary, a taxpayer claiming a credit under this division has the burden of establishing by a preponderance of the evidence that the doctrines enumerated in section ~~5747.131~~ 5703.56 of the Revised Code do not apply with respect to the credit provided by this division.

(D) Nothing in this section shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5747.02 of the Revised Code and the credits allowed by this chapter.

**Sec. 5901.021.** (A) This section applies only to counties having a population, according to the most recent decennial census, of more than ~~four~~ five hundred thousand. ~~In~~

(B)(1) In any such county that is described in division (A) of this section and in which the veterans service commission submits a budget request under section 5901.11 of the Revised Code for the ensuing fiscal year that exceeds ~~(1)~~ twenty-five-thousandths of one per cent of the assessed value of property in the county or ~~(2)~~ the amount appropriated to the commission from the county general fund in the current fiscal year by more than ten per cent of that appropriation, the board of county commissioners, by resolution, may create not more than six memberships on the veterans service commission in addition to the memberships provided for by section 5901.02 of the Revised Code. The board shall prescribe the number of years ~~such~~ the additional memberships shall exist, which shall not exceed five years. Once a board of county commissioners creates ~~such~~ any additional memberships, it may not create further additional memberships under this section if the total number of such memberships would exceed six. The board shall appoint persons who are residents of

the county and who are honorably discharged or honorably separated 68434  
veterans to each of the additional memberships, for terms 68435  
prescribed by the board and commencing on a date fixed by the 68436  
board. Each person appointed to an additional membership shall 68437  
file, within sixty days after the date of the appointment, the 68438  
person's form DD214 with the governor's office of veterans affairs 68439  
in accordance with guidelines established by the director of that 68440  
office. 68441

(2) If the board of county commissioners appoints ~~such~~ 68442  
additional members as described in division (B)(1) of this 68443  
section, the board may permit the commission to submit an original 68444  
or revised budget request for the ensuing fiscal year later than 68445  
the last Monday in May, as otherwise required under section 68446  
5901.11 of the Revised Code. 68447

(C) The board of county commissioners may remove, for cause, 68448  
any member appointed under this section~~†~~. The board shall provide 68449  
~~for~~ determine whether ~~such~~ the additional members may be 68450  
reappointed upon the expiration of their terms~~†~~, and shall fill 68451  
any vacancy in ~~a~~ an additional membership ~~appointed under this~~ 68452  
~~section~~ for the unexpired term in the manner provided for the 68453  
original appointment. 68454

**Sec. 6101.09.** Within thirty days after the conservancy 68455  
district has been declared a corporation by the court, the clerk 68456  
of such court shall transmit to the secretary of state, to the 68457  
director of the department of natural resources, and to the county 68458  
recorder in each of the counties having lands in the district, 68459  
copies of the findings and the decree of the court incorporating 68460  
the district. The same shall be filed and recorded in the office 68461  
of the secretary of state in the same manner as articles of 68462  
incorporation are required to be filed and recorded under the 68463  
general law concerning corporations. Copies shall also be filed 68464

and become permanent records in the office of the recorder of each 68465  
county in which a part of the district lies. Each recorder shall 68466  
receive a base fee of one dollar for filing and preserving such 68467  
copies and a housing trust fund fee of one dollar pursuant to 68468  
section 317.36 of the Revised Code, and the secretary of state 68469  
shall receive for filing and for recording the copies a fee of 68470  
twenty-five dollars. 68471

**Sec. 6109.21.** (A) Except as provided in divisions (D) and (E) 68472  
of this section, on and after January 1, 1994, no person shall 68473  
operate or maintain a public water system in this state without a 68474  
license issued by the director of environmental protection. A 68475  
person who operates or maintains a public water system on January 68476  
1, 1994, shall obtain an initial license under this section in 68477  
accordance with the following schedule: 68478

(1) If the public water system is a community water system, 68479  
not later than January 31, 1994; 68480

(2) If the public water system is not a community water 68481  
system and serves a nontransient population, not later than 68482  
January 31, 1994; 68483

(3) If the public water system is not a community water 68484  
system and serves a transient population, not later than January 68485  
31, 1995. 68486

A person proposing to operate or maintain a new public water 68487  
system after January 1, 1994, in addition to complying with 68488  
section 6109.07 of the Revised Code and rules adopted under it, 68489  
shall submit an application for an initial license under this 68490  
section to the director prior to commencing operation of the 68491  
system. 68492

A license or license renewal issued under this section shall 68493  
be renewed annually. Such a license or license renewal shall 68494



expire on the thirtieth day of January in the year following its 68495  
issuance. A license holder that proposes to continue operating the 68496  
public water system for which the license or license renewal was 68497  
issued shall apply for a license renewal at least thirty days 68498  
prior to that expiration date. 68499

The director shall adopt, and may amend and rescind, rules in 68500  
accordance with Chapter 119. of the Revised Code establishing 68501  
procedures governing and information to be included on 68502  
applications for licenses and license renewals under this section. 68503  
Through June 30, ~~2004~~ 2006, each application shall be accompanied 68504  
by the appropriate fee established under division (M) of section 68505  
3745.11 of the Revised Code, provided that an applicant for an 68506  
initial license who is proposing to operate or maintain a new 68507  
public water system after January 1, 1994, shall submit a fee that 68508  
equals a prorated amount of the appropriate fee established under 68509  
that division for the remainder of the licensing year. 68510

(B) Not later than thirty days after receiving a completed 68511  
application and the appropriate license fee for an initial license 68512  
under division (A) of this section, the director shall issue the 68513  
license for the public water system. Not later than thirty days 68514  
after receiving a completed application and the appropriate 68515  
license fee for a license renewal under division (A) of this 68516  
section, the director shall do one of the following: 68517

(1) Issue the license renewal for the public water system; 68518

(2) Issue the license renewal subject to terms and conditions 68519  
that the director determines are necessary to ensure compliance 68520  
with this chapter and rules adopted under it; 68521

(3) Deny the license renewal if the director finds that the 68522  
public water system was not operated in substantial compliance 68523  
with this chapter and rules adopted under it. 68524

(C) The director may suspend or revoke a license or license 68525

renewal issued under this section if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it. The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code governing such suspensions and revocations.

(D)(1) As used in division (D) of this section, "church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person.

(2) This section does not apply to a church that operates or maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families. A church that, on or before March 5, 1996, has obtained a license under this section for such a public water system need not obtain a license renewal under this section.

(E) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

**Sec. 6115.09.** Within thirty days after the sanitary district has been declared a corporation by the court, the clerk of such court shall transmit to the secretary of state, and to the county recorder in each of the counties having lands in said district, copies of the findings and the decree of the court incorporating said district. The same shall be filed and recorded in the office of the secretary of state in the same manner as articles of incorporation are required to be filed and recorded under the general law concerning corporations. Copies shall also be filed

and become permanent records in the office of the recorder of each 68557  
county in which a part of the district lies. Each recorder shall 68558  
receive a base fee of one dollar for filing and preserving such 68559  
copies and a housing trust fund fee of one dollar pursuant to 68560  
section 317.36 of the Revised Code, and the secretary of state 68561  
shall receive for filing and for recording said copies such fees 68562  
as are provided by law for like services in similar cases. 68563

**Sec. 6117.02.** (A) The board of county commissioners shall fix 68564  
reasonable rates, including penalties for late payments, for the 68565  
use, or the availability for use, of the sanitary facilities of a 68566  
sewer district to be paid by every person and public agency whose 68567  
premises are served, or capable of being served, by a connection 68568  
directly or indirectly to those facilities when those facilities 68569  
are owned or operated by the county and may change the rates from 68570  
time to time as it considers advisable. When the sanitary 68571  
facilities to be used by the county are owned by another public 68572  
agency or person, the schedule of rates to be charged by the 68573  
public agency or person for the use of the facilities by the 68574  
county, or the formula or other procedure for their determination, 68575  
shall be approved by the board at the time it enters into a 68576  
contract for that use. 68577

(B) The board also shall establish reasonable charges to be 68578  
collected for the privilege of connecting to the sanitary 68579  
facilities of the district, with the requirement that, prior to 68580  
the connection, the charges shall be paid in full, or, if 68581  
determined by the board to be equitable in a resolution relating 68582  
to the payment of the charges, provision considered adequate by 68583  
the board shall be made for their payment in installments at the 68584  
times, in the amounts, and with the security, carrying charges, 68585  
and penalties as may be found by the board in that resolution to 68586  
be fair and appropriate. No public agency or person shall be 68587  
permitted to connect to those facilities until the charges have 68588

been paid in full or provision for their payment in installments 68589  
has been made. If the connection charges are to be paid in 68590  
installments, the board shall certify to the county auditor 68591  
information sufficient to identify each parcel of property served 68592  
by a connection and, with respect to each parcel, the total of the 68593  
charges to be paid in installments, the amount of each 68594  
installment, and the total number of installments to be paid. The 68595  
auditor shall record and maintain the information supplied in the 68596  
sewer improvement record provided for in section 6117.33 of the 68597  
Revised Code until the connection charges are paid in full. The 68598  
board may include amounts attributable to connection charges being 68599  
paid in installments in its billings of rates and charges for the 68600  
use of sanitary facilities. 68601

(C) When any of the sanitary rates or charges are not paid 68602  
when due, the board may do any or all of the following as it 68603  
considers appropriate: 68604

(1) Certify the unpaid rates or charges, together with any 68605  
penalties, to the county auditor, who shall place them upon the 68606  
real property tax list and duplicate against the property served 68607  
by the connection. The certified amount shall be a lien on the 68608  
property from the date placed on the real property tax list and 68609  
duplicate and shall be collected in the same manner as taxes, 68610  
except that, notwithstanding section 323.15 of the Revised Code, a 68611  
county treasurer shall accept a payment in that amount when 68612  
separately tendered as payment for the full amount of the unpaid 68613  
sanitary rates or charges and associated penalties. The lien shall 68614  
be released immediately upon payment in full of the certified 68615  
amount. 68616

(2) Collect the unpaid rates or charges, together with any 68617  
penalties, by actions at law in the name of the county from an 68618  
owner, tenant, or other person or public agency that is liable for 68619  
the payment of the rates or charges; 68620

(3) Terminate, in accordance with established rules, the sanitary service to the particular property and, if so determined, any county water service to that property, unless and until the unpaid sanitary rates or charges, together with any penalties, are paid in full;

(4) Apply, to the extent required, any security deposit made in accordance with established rules to the payment of sanitary rates and charges for service to the particular property.

All moneys collected as sanitary rates, charges, or penalties fixed or established in accordance with divisions (A) and (B) of this section for any sewer district shall be paid to the county treasurer and kept in a separate and distinct sanitary fund established by the board to the credit of the district. Except as otherwise provided in any proceedings authorizing or providing for the security for and payment of any public obligations, or in any indenture or trust or other agreement securing public obligations, moneys in the sanitary fund shall be applied first to the payment of the cost of the management, maintenance, and operation of the sanitary facilities of, or used or operated for, the district, which cost may include the county's share of management, maintenance, and operation costs under cooperative contracts for the acquisition, construction, or use of sanitary facilities and, in accordance with a cost allocation plan adopted under division (E) of this section, payment of all allowable direct and indirect costs of the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for sanitary purposes under this chapter, and shall be applied second to the payment of debt charges payable on any outstanding public obligations issued or incurred for the acquisition or construction of sanitary facilities for or serving the district, or for the funding of a bond retirement or other fund established for the payment of or security for the

obligations. Any surplus remaining may be applied to the 68653  
acquisition or construction of those facilities or for the payment 68654  
of contributions to be made, or costs incurred, for the 68655  
acquisition or construction of those facilities under cooperative 68656  
contracts. Moneys in the sanitary fund shall not be expended other 68657  
than for the use and benefit of the district. 68658

(D) The board may fix reasonable rates and charges, including 68659  
connection charges and penalties for late payments, to be paid by 68660  
any person or public agency owning or having possession or control 68661  
of any properties that are connected with, capable of being served 68662  
by, or otherwise served directly or indirectly by, drainage 68663  
facilities owned or operated by or under the jurisdiction of the 68664  
county, including, but not limited to, properties requiring, or 68665  
lying within an area of the district requiring, in the judgment of 68666  
the board, the collection, control, or abatement of waters 68667  
originating or accumulating in, or flowing in, into, or through, 68668  
the district, and may change those rates and charges from time to 68669  
time as it considers advisable. The In addition, the board may fix 68670  
the rates and charges in order to pay the costs of complying with 68671  
the requirements of phase II of the storm water program of the 68672  
national pollutant discharge elimination system established in 40 68673  
C.F.R. part 122. 68674

The rates and charges shall be payable periodically as 68675  
determined by the board, except that any connection charges shall 68676  
be paid in full in one payment, or, if determined by the board to 68677  
be equitable in a resolution relating to the payment of those 68678  
charges, provision considered adequate by the board shall be made 68679  
for their payment in installments at the times, in the amounts, 68680  
and with the security, carrying charges, and penalties as may be 68681  
found by the board in that resolution to be fair and appropriate. 68682  
The board may include amounts attributable to connection charges 68683  
being paid in installments in its billings of rates and charges 68684

for the services provided by the drainage facilities. In the case 68685  
of rates and charges that are fixed in order to pay the costs of 68686  
complying with the requirements of phase II of the storm water 68687  
program of the national pollutant discharge elimination system 68688  
established in 40 C.F.R. part 122, the rates and charges may be 68689  
paid annually or semiannually with real property taxes, provided 68690  
that the board certifies to the county auditor information that is 68691  
sufficient for the auditor to identify each parcel of property for 68692  
which a rate or charge is levied and the amount of the rate or 68693  
charge. 68694

When any of the drainage rates or charges are not paid when 68695  
due, the board may do any or all of the following as it considers 68696  
appropriate: 68697

(1) Certify the unpaid rates or charges, together with any 68698  
penalties, to the county auditor, who shall place them upon the 68699  
real property tax list and duplicate against the property to which 68700  
the rates or charges apply. The certified amount shall be a lien 68701  
on the property from the date placed on the real property tax list 68702  
and duplicate and shall be collected in the same manner as taxes, 68703  
except that notwithstanding section 323.15 of the Revised Code, a 68704  
county treasurer shall accept a payment in that amount when 68705  
separately tendered as payment for the full amount of the unpaid 68706  
drainage rates or charges and associated penalties. The lien shall 68707  
be released immediately upon payment in full of the certified 68708  
amount. 68709

(2) Collect the unpaid rates or charges, together with any 68710  
penalties, by actions at law in the name of the county from an 68711  
owner, tenant, or other person or public agency that is liable for 68712  
the payment of the rates or charges; 68713

(3) Terminate, in accordance with established rules, the 68714  
drainage service for the particular property until the unpaid 68715  
rates or charges, together with any penalties, are paid in full; 68716

(4) Apply, to the extent required, any security deposit made 68717  
in accordance with established rules to the payment of drainage 68718  
rates and charges applicable to the particular property. 68719

All moneys collected as drainage rates, charges, or penalties 68720  
in or for any sewer district shall be paid to the county treasurer 68721  
and kept in a separate and distinct drainage fund established by 68722  
the board to the credit of the district. Except as otherwise 68723  
provided in any proceedings authorizing or providing for the 68724  
security for and payment of any public obligations, or in any 68725  
indenture or trust or other agreement securing public obligations, 68726  
moneys in the drainage fund shall be applied first to the payment 68727  
of the cost of the management, maintenance, and operation of the 68728  
drainage facilities of, or used or operated for, the district, 68729  
which cost may include the county's share of management, 68730  
maintenance, and operation costs under cooperative contracts for 68731  
the acquisition, construction, or use of drainage facilities and, 68732  
in accordance with a cost allocation plan adopted under division 68733  
(E) of this section, payment of all allowable direct and indirect 68734  
costs of the district, the county sanitary engineer or sanitary 68735  
engineering department, or a federal or state grant program, 68736  
incurred for drainage purposes under this chapter, and shall be 68737  
applied second to the payment of debt charges payable on any 68738  
outstanding public obligations issued or incurred for the 68739  
acquisition or construction of drainage facilities for or serving 68740  
the district, or for the funding of a bond retirement or other 68741  
fund established for the payment of or security for the 68742  
obligations. Any surplus remaining may be applied to the 68743  
acquisition or construction of those facilities or for the payment 68744  
of contributions to be made, or costs incurred, for the 68745  
acquisition or construction of those facilities under cooperative 68746  
contracts. Moneys in the drainage fund shall not be expended other 68747  
than for the use and benefit of the district. 68748



(E) A board of county commissioners may adopt a cost allocation plan that identifies, accumulates, and distributes allowable direct and indirect costs that may be paid from each of the funds of the district created pursuant to divisions (C) and (D) of this section, and that prescribes methods for allocating those costs. The plan shall authorize payment from each of those funds of only those costs incurred by the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, and those costs incurred by the general and other funds of the county for a common or joint purpose, that are necessary and reasonable for the proper and efficient administration of the district under this chapter and properly attributable to the particular fund of the district. The plan shall not authorize payment from either of the funds of any general government expense required to carry out the overall governmental responsibilities of a county. The plan shall conform to United States office of management and budget Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," published May 17, 1995.

**Sec. 6119.06.** Upon the declaration of the court of common pleas organizing the regional water and sewer district pursuant to section 6119.04 of the Revised Code and upon the qualifying of its board of trustees and the election of a president and a secretary, said district shall exercise in its own name all the rights, powers, and duties vested in it by Chapter 6119. of the Revised Code, and, subject to such reservations, limitations and qualifications as are set forth in this Chapter, such district may:

(A) Adopt bylaws for the regulation of its affairs, the conduct of its business, and notice of its actions;

(B) Adopt an official seal;

(C) Maintain a principal office and suboffices at such places 68780  
within the district as it designates; 68781

(D) Sue and plead in its own name; be sued and impleaded in 68782  
its own name with respect to its contracts or torts of its 68783  
members, employees, or agents acting within the scope of their 68784  
employment, or to enforce its obligations and covenants made under 68785  
sections 6119.09, 6119.12, and 6119.14 of the Revised Code. Any 68786  
such actions against the district shall be brought in the court of 68787  
common pleas of the county in which the principal office of the 68788  
district is located, or in the court of common pleas of the county 68789  
in which the cause of action arose, and all summonses, exceptions, 68790  
and notices of every kind shall be served on the district by 68791  
leaving a copy thereof at the principal office with the person in 68792  
charge thereof or with the secretary of the district; 68793

(E) Assume any liability or obligation of any person or 68794  
political subdivision, including a right on the part of such 68795  
district to indemnify and save harmless the other contracting 68796  
party from any loss, cost, or liability by reason of the failure, 68797  
refusal, neglect, or omission of such district to perform any 68798  
agreement assumed by it or to act or discharge any such 68799  
obligation; 68800

(F) Make loans and grants to political subdivisions for the 68801  
acquisition or construction of water resource projects by such 68802  
political subdivisions and adopt rules, regulations, and 68803  
procedures for making such loans and grants; 68804

(G) Acquire, construct, reconstruct, enlarge, improve, 68805  
furnish, equip, maintain, repair, operate, lease or rent to or 68806  
from, or contract for operation by or for, a political subdivision 68807  
or person, water resource projects within or without the district, 68808  
except that no water resource project shall be constructed within 68809  
one thousand feet of a water supply facility that is owned or 68810

operated by a municipal corporation or a board of county 68811  
commissioners pursuant to Chapter 6103. of the Revised Code if the 68812  
facility is financed in whole or in part by obligations issued 68813  
under Chapter 133., 6103., or 6121. of the Revised Code or by 68814  
obligations issued by the state unless the municipal corporation 68815  
or the county, as applicable, gives consent to the construction by 68816  
adopting an ordinance or a resolution; 68817

(H) Make available the use or service of any water resource 68818  
project to one or more persons, one or more political 68819  
subdivisions, or any combination thereof; 68820

(I) Levy and collect taxes and special assessments; 68821

(J) Issue bonds and notes and refunding bonds and notes as 68822  
provided in Chapter 6119. of the Revised Code; 68823

(K) Acquire by gift or purchase, hold, and dispose of real 68824  
and personal property in the exercise of its powers and the 68825  
performance of its duties under Chapter 6119. of the Revised Code; 68826

(L) Dispose of, by public or private sale, or lease any real 68827  
or personal property determined by the board of trustees to be no 68828  
longer necessary or needed for the operation or purposes of the 68829  
district; 68830

(M) Acquire, in the name of the district, by purchase or 68831  
otherwise, on such terms and in such manner as it considers 68832  
proper, or by the exercise of the right of condemnation in the 68833  
manner provided by section 6119.11 of the Revised Code, such 68834  
public or private lands, including public parks, playgrounds, or 68835  
reservations, or parts thereof or rights therein, rights-of-way, 68836  
property, rights, easements, and interests as it considers 68837  
necessary for carrying out Chapter 6119. of the Revised Code, but 68838  
excluding the acquisition by the exercise of the right of 68839  
condemnation of any waste water facility or water management 68840  
facility owned by any person or political subdivision, and 68841

compensation shall be paid for public or private lands so taken; 68842

(N) Adopt rules and regulations to protect augmented flow by 68843  
the district in waters of the state, to the extent augmented by a 68844  
water resource project, from depletion so it will be available for 68845  
beneficial use, to provide standards for the withdrawal from 68846  
waters of the state of the augmented flow created by a water 68847  
resource project which is not returned to the waters of the state 68848  
so augmented, and to establish reasonable charges therefor, if 68849  
considered necessary by the district; 68850

(O) Make and enter into all contracts and agreements and 68851  
execute all instruments necessary or incidental to the performance 68852  
of its duties and the execution of its powers under Chapter 6119. 68853  
of the Revised Code; 68854

(P) Enter into contracts with any person or any political 68855  
subdivision to render services to such contracting party for any 68856  
service the district is authorized to provide; 68857

(Q) Make provision for, contract for, or sell any of its 68858  
by-products or waste; 68859

(R) Exercise the power of eminent domain in the manner 68860  
provided in Chapter 6119. of the Revised Code; 68861

(S) Remove or change the location of any fence, building, 68862  
railroad, canal, or other structure or improvement located in or 68863  
out of the district, and in case it is not feasible or economical 68864  
to move any such building, structure, or improvement situated in 68865  
or upon lands required, and if the cost is determined by the board 68866  
to be less than that of purchase or condemnation, to acquire land 68867  
and construct, acquire, or install therein or thereon buildings, 68868  
structures, or improvements similar in purpose, to be exchanged 68869  
for such buildings, structures, or improvements under contracts 68870  
entered into between the owner thereof and the district; 68871

(T) Receive and accept, from any federal or state agency, 68872

grants for or in aid of the construction of any water resource 68873  
project, and receive and accept aid or contributions from any 68874  
source of money, property, labor, or other things of value, to be 68875  
held, used, and applied only for the purposes for which such 68876  
grants and contributions are made; 68877

(U) Purchase fire and extended coverage and liability 68878  
insurance for any water resource project and for the principal 68879  
office and suboffices of the district, insurance protecting the 68880  
district and its officers and employees against liability for 68881  
damage to property or injury to or death of persons arising from 68882  
its operations, and any other insurance the district may agree to 68883  
provide under any resolution authorizing its water resource 68884  
revenue bonds or in any trust agreement securing the same; 68885

(V) Charge, alter, and collect rentals and other charges for 68886  
the use of services of any water resource project as provided in 68887  
section 6119.09 of the Revised Code. Such district may refuse the 68888  
services of any of its projects if any of such rentals or other 68889  
charges, including penalties for late payment, are not paid by the 68890  
user thereof, and, if such rentals or other charges are not paid 68891  
when due and upon certification of nonpayment to the county 68892  
auditor, such rentals or other charges constitute a lien upon the 68893  
property so served, shall be placed by ~~him~~ the auditor upon the 68894  
real property tax list and duplicate, and shall be collected in 68895  
the same manner as other taxes~~+~~. 68896

(W) Provide coverage for its employees under Chapters 145., 68897  
4123., and 4141. of the Revised Code; 68898

(X) Merge or combine with any other regional water and sewer 68899  
district into a single district, which shall be one of the 68900  
constituent districts, on terms so that the surviving district 68901  
shall be possessed of all rights, capacity, privileges, powers, 68902  
franchises, and authority of the constituent districts and shall 68903  
be subject to all the liabilities, obligations, and duties of each 68904

of the constituent districts and all rights of creditors of such 68905  
constituent districts shall be preserved unimpaired, limited in 68906  
lien to the property affected by such liens immediately prior to 68907  
the time of the merger and all debts, liabilities, and duties of 68908  
the respective constituent districts shall thereafter attach to 68909  
the surviving district and may be enforced against it, and such 68910  
other terms as are agreed upon, provided two-thirds of the members 68911  
of each of the boards consent to such merger or combination. Such 68912  
merger or combination shall become legally effective unless, prior 68913  
to the ninetieth day following the later of the consents, 68914  
qualified electors residing in either district equal in number to 68915  
a majority of the qualified electors voting at the last general 68916  
election in such district file with the secretary of the board of 68917  
trustees of their regional water and sewer district a petition of 68918  
remonstrance against such merger or combination. The secretary 68919  
shall cause the board of elections of the proper county or 68920  
counties to check the sufficiency of the signatures on such 68921  
petition. 68922

(Y) Exercise the powers of the district without obtaining the 68923  
consent of any other political subdivision, provided that all 68924  
public or private property damaged or destroyed in carrying out 68925  
the powers of the district shall be restored or repaired and 68926  
placed in its original condition as nearly as practicable or 68927  
adequate compensation made therefor by the district; 68928

(Z) Require the owner of any premises located within the 68929  
district to connect ~~his~~ the owner's premises to a water resource 68930  
project determined to be accessible to such premises and found to 68931  
require such connection so as to prevent or abate pollution or 68932  
protect the health and property of persons in the district. Such 68933  
connection shall be made in accordance with procedures established 68934  
by the board of trustees of such district and pursuant to such 68935  
orders as the board may find necessary to ensure and enforce 68936

compliance with such procedures+.	68937
(AA) Do all acts necessary or proper to carry out the powers granted in Chapter 6119. of the Revised Code.	68938 68939
<b>Section 2.</b> That existing sections 9.01, 9.83, 101.34, 101.72, 101.82, 102.02, 109.57, 109.572, 109.71, 117.101, 117.16, 117.44, 117.45, 119.035, 121.04, 121.084, 121.41, 121.48, 121.62, 122.011, 122.04, 122.08, 122.17, 122.171, 122.25, 122.651, 122.658, 122.87, 122.88, 123.01, 124.03, 124.15, 124.152, 124.181, 125.15, 125.91, 125.92, 125.93, 125.95, 125.96, 125.98, 127.16, 131.02, 131.23, 131.35, 145.38, 147.01, 147.37, 149.011, 149.30, 149.31, 149.33, 149.331, 149.332, 149.333, 149.34, 149.35, 153.65, 164.27, 165.09, 173.06, 173.061, 173.062, 173.07, 173.071, 173.14, 173.26, 175.03, 175.21, 175.22, 183.02, 306.35, 306.99, 307.86, 307.87, 307.93, 311.17, 317.32, 321.24, 323.01, 325.31, 329.03, 329.04, 329.051, 340.021, 340.03, 341.05, 341.25, 504.03, 504.04, 507.09, 511.12, 515.01, 515.07, 715.013, 718.01, 718.02, 718.05, 718.11, 718.15, 718.151, 731.14, 731.141, 735.05, 737.03, 753.22, 901.17, 901.21, 901.22, 901.63, 902.11, 921.151, 927.53, 927.69, 929.01, 955.51, 1309.109, 1317.07, 1321.21, 1333.99, 1501.04, 1503.05, 1513.05, 1515.08, 1519.05, 1521.06, 1521.063, 1531.26, 1533.08, 1533.10, 1533.101, 1533.11, 1533.111, 1533.112, 1533.13, 1533.151, 1533.19, 1533.23, 1533.301, 1533.32, 1533.35, 1533.40, 1533.54, 1533.631, 1533.632, 1533.71, 1533.82, 1541.10, 1563.42, 1702.59, 1711.13, 1711.15, 1711.17, 2101.16, 2117.06, 2117.25, 2151.352, 2151.3529, 2151.3530, 2151.83, 2151.84, 2152.19, 2301.58, 2305.234, 2329.07, 2329.66, 2505.13, 2715.041, 2715.045, 2716.13, 2743.02, 2915.01, 2915.02, 2915.08, 2915.09, 2915.091, 2915.092, 2915.093, 2915.10, 2915.101, 2915.13, 2917.41, 2921.13, 2923.35, 2925.44, 2929.38, 2933.43, 2935.01, 2935.36, 2949.091, 3111.04, 3119.01, 3121.01, 3123.952, 3301.0714, 3301.52, 3301.53, 3301.54, 3301.55, 3301.57, 3301.58, 3301.68, 3301.80, 3302.03, 3311.05, 3311.24, 3311.26, 3313.41, 3313.843, 3313.979, 3313.981, 3314.02, 3314.041, 3314.07,	68940 68941 68942 68943 68944 68945 68946 68947 68948 68949 68950 68951 68952 68953 68954 68955 68956 68957 68958 68959 68960 68961 68962 68963 68964 68965 68966 68967 68968

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5741.24, 5743.46, 5747.131, and 5747.60 of the Revised Code are 69047  
hereby repealed. 69048

**Section 3.01.** That the version of section 921.22 of the 69049  
Revised Code that is scheduled to take effect July 1, 2004, be 69050  
amended to read as follows: 69051

**Sec. 921.22.** The pesticide program fund is hereby created in 69052  
the state treasury. ~~All~~ The portion of the money in the fund that 69053  
is collected under this chapter shall be used to carry out the 69054  
purposes of this chapter. The portion of the money in the fund 69055  
that is collected under section 927.53 of the Revised Code shall 69056  
be used to carry out the purposes specified in that section, the 69057  
portion of the money in the fund that is collected under section 69058  
927.69 of the Revised Code shall be used to carry out the purposes 69059  
specified in that section, and the portion of the money in the 69060  
fund that is collected under section 927.701 of the Revised Code 69061  
shall be used to carry out the purposes of that section. The fund 69062  
shall consist of fees collected under sections 921.01 to 921.15, 69063  
division (F) of section 927.53, and section 927.69 of the Revised 69064  
Code, money collected under section 927.701 of the Revised Code, 69065

and all fines, penalties, costs, and damages, except court costs, 69066  
that are collected by either the director of agriculture or the 69067  
attorney general in consequence of any violation of this chapter. 69068

**Section 3.02.** That the existing version of section 921.22 of 69069  
the Revised Code that is scheduled to take effect July 1, 2004, is 69070  
hereby repealed. 69071

**Section 3.03.** Sections 3.01 and 3.02 of this act take effect 69072  
July 1, 2004. 69073

**Section 3.04.** That the version of section 3332.04 of the 69074  
Revised Code that is scheduled to take effect on July 1, 2003, be 69075  
amended to read as follows: 69076

**Sec. 3332.04.** The state board of career colleges and schools 69077  
may appoint an executive director and such other staff as may be 69078  
required for the performance of the board's duties and provide 69079  
necessary facilities. In selecting an executive director, the 69080  
board shall appoint an individual with a background or experience 69081  
in the regulation of commerce, business, or education. The board 69082  
may also arrange for services and facilities to be provided by the 69083  
state board of education and the Ohio board of regents. All 69084  
receipts of the board shall be deposited in the ~~career colleges~~ 69085  
~~and schools operating fund, which is hereby created in the state~~ 69086  
~~treasury. Moneys in the fund shall be used solely for the~~ 69087  
~~administration and enforcement of Chapter 3332. of the Revised~~ 69088  
~~Code. All investment earnings on the fund shall be credited to the~~ 69089  
to the credit of the occupational licensing and regulatory fund. 69090

**Section 3.05.** That the version of section 3332.04 of the 69091  
Revised Code that is scheduled to take effect on July 1, 2003, is 69092  
hereby repealed. 69093

**Section 3.06.** Sections 3.04 and 3.05 of this act take effect 69094  
July 1, 2003. 69095

**Section 3.06A.** That the version of section 2305.234 of the 69096  
Revised Code that is scheduled to take effect January 1, 2004, be 69097  
amended to read as follows: 69098

**Sec. 2305.234.** (A) As used in this section: 69099

(1) "Chiropractic claim," "medical claim," and "optometric 69100  
claim" have the same meanings as in section 2305.113 of the 69101  
Revised Code. 69102

(2) "Dental claim" has the same meaning as in section 69103  
2305.113 of the Revised Code, except that it does not include any 69104  
claim arising out of a dental operation or any derivative claim 69105  
for relief that arises out of a dental operation. 69106

(3) "Governmental health care program" has the same meaning 69107  
as in section 4731.65 of the Revised Code. 69108

(4) "Health care professional" means any of the following who 69109  
provide medical, dental, or other health-related diagnosis, care, 69110  
or treatment: 69111

(a) Physicians authorized under Chapter 4731. of the Revised 69112  
Code to practice medicine and surgery or osteopathic medicine and 69113  
surgery; 69114

(b) Registered nurses, advanced practice nurses, and licensed 69115  
practical nurses licensed under Chapter 4723. of the Revised Code; 69116

(c) Physician assistants authorized to practice under Chapter 69117  
4730. of the Revised Code; 69118

(d) Dentists and dental hygienists licensed under Chapter 69119  
4715. of the Revised Code; 69120

(e) Physical therapists licensed under Chapter 4755. of the Revised Code;	69121 69122
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	69123 69124
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	69125 69126
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	69127 69128
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	69129 69130
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	69131 69132
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code.	69133 69134 69135 69136
(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.	69137 69138 69139 69140 69141 69142 69143
(6) "Indigent and uninsured person" means a person who meets all of the following requirements:	69144 69145
(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.	69146 69147 69148 69149 69150

(b) The person is not eligible to receive medical assistance 69151  
under Chapter 5111., disability ~~assistance~~ medical assistance 69152  
under Chapter 5115. of the Revised Code, or assistance under any 69153  
other governmental health care program. 69154

(c) Either of the following applies: 69155

(i) The person is not a policyholder, certificate holder, 69156  
insured, contract holder, subscriber, enrollee, member, 69157  
beneficiary, or other covered individual under a health insurance 69158  
or health care policy, contract, or plan. 69159

(ii) The person is a policyholder, certificate holder, 69160  
insured, contract holder, subscriber, enrollee, member, 69161  
beneficiary, or other covered individual under a health insurance 69162  
or health care policy, contract, or plan, but the insurer, policy, 69163  
contract, or plan denies coverage or is the subject of insolvency 69164  
or bankruptcy proceedings in any jurisdiction. 69165

(7) "Operation" means any procedure that involves cutting or 69166  
otherwise infiltrating human tissue by mechanical means, including 69167  
surgery, laser surgery, ionizing radiation, therapeutic 69168  
ultrasound, or the removal of intraocular foreign bodies. 69169  
"Operation" does not include the administration of medication by 69170  
injection, unless the injection is administered in conjunction 69171  
with a procedure infiltrating human tissue by mechanical means 69172  
other than the administration of medicine by injection. 69173

(8) "Nonprofit shelter or health care facility" means a 69174  
charitable nonprofit corporation organized and operated pursuant 69175  
to Chapter 1702. of the Revised Code, or any charitable 69176  
organization not organized and not operated for profit, that 69177  
provides shelter, health care services, or shelter and health care 69178  
services to indigent and uninsured persons, except that "shelter 69179  
or health care facility" does not include a hospital as defined in 69180  
section 3727.01 of the Revised Code, a facility licensed under 69181

Chapter 3721. of the Revised Code, or a medical facility that is 69182  
operated for profit. 69183

(9) "Tort action" means a civil action for damages for 69184  
injury, death, or loss to person or property other than a civil 69185  
action for damages for a breach of contract or another agreement 69186  
between persons or government entities. 69187

(10) "Volunteer" means an individual who provides any 69188  
medical, dental, or other health-care related diagnosis, care, or 69189  
treatment without the expectation of receiving and without receipt 69190  
of any compensation or other form of remuneration from an indigent 69191  
and uninsured person, another person on behalf of an indigent and 69192  
uninsured person, any shelter or health care facility, or any 69193  
other person or government entity. 69194

(11) "Community control sanction" has the same meaning as in 69195  
section 2929.01 of the Revised Code. 69196

(B)(1) Subject to divisions (E) and (F)(3) of this section, a 69197  
health care professional who is a volunteer and complies with 69198  
division (B)(2) of this section is not liable in damages to any 69199  
person or government entity in a tort or other civil action, 69200  
including an action on a medical, dental, chiropractic, 69201  
optometric, or other health-related claim, for injury, death, or 69202  
loss to person or property that allegedly arises from an action or 69203  
omission of the volunteer in the provision at a nonprofit shelter 69204  
or health care facility to an indigent and uninsured person of 69205  
medical, dental, or other health-related diagnosis, care, or 69206  
treatment, including the provision of samples of medicine and 69207  
other medical products, unless the action or omission constitutes 69208  
willful or wanton misconduct. 69209

(2) To qualify for the immunity described in division (B)(1) 69210  
of this section, a health care professional shall do all of the 69211  
following prior to providing diagnosis, care, or treatment: 69212

(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;

(b) Inform the person of the provisions of this section;

(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.

(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 69244  
damages to any person or government entity in a tort or other 69245  
civil action, including an action on a medical, dental, 69246  
chiropractic, optometric, or other health-related claim, for 69247  
injury, death, or loss to person or property that allegedly arises 69248  
from an action or omission of the health care professional or 69249  
worker in providing for the shelter or facility medical, dental, 69250  
or other health-related diagnosis, care, or treatment to an 69251  
indigent and uninsured person, unless the action or omission 69252  
constitutes willful or wanton misconduct. 69253

(E)(1) Except as provided in division (E)(2) of this section, 69254  
the immunities provided by divisions (B), (C), and (D) of this 69255  
section are not available to an individual or to a nonprofit 69256  
shelter or health care facility if, at the time of an alleged 69257  
injury, death, or loss to person or property, the individuals 69258  
involved are providing one of the following: 69259

(a) Any medical, dental, or other health-related diagnosis, 69260  
care, or treatment pursuant to a community service work order 69261  
entered by a court under division (B) of section 2951.02 of the 69262  
Revised Code or imposed by a court as a community control 69263  
sanction; 69264

(b) Performance of an operation; 69265

(c) Delivery of a baby. 69266

(2) Division (E)(1) of this section does not apply to an 69267  
individual who provides, or a nonprofit shelter or health care 69268  
facility at which the individual provides, diagnosis, care, or 69269  
treatment that is necessary to preserve the life of a person in a 69270  
medical emergency. 69271

(F)(1) This section does not create a new cause of action or 69272  
substantive legal right against a health care professional, health 69273  
care worker, or nonprofit shelter or health care facility. 69274

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which an individual or a nonprofit shelter or health care facility may be entitled in connection with the provision of emergency or other diagnosis, care, or treatment.

(3) This section does not grant an immunity from tort or other civil liability to an individual or a nonprofit shelter or health care facility for actions that are outside the scope of authority of health care professionals or health care workers.

(4) This section does not affect any legal responsibility of a health care professional or health care worker to comply with any applicable law of this state or rule of an agency of this state.

(5) This section does not affect any legal responsibility of a nonprofit shelter or health care facility to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution, sanitation, health, fire, zoning, or safety.

**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.

**Section 3.06C.** Sections 3.06A and 3.06B of this act take effect January 1, 2004.

**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:

**Sec. 3734.44.** Notwithstanding the provisions of any law to 69303  
the contrary, no permit or license shall be issued or renewed by 69304  
the director of environmental protection, ~~the hazardous waste~~ 69305  
~~facility board,~~ or a board of health: 69306

(A) Unless the director, ~~the hazardous waste facility board,~~ 69307  
or the board of health finds that the applicant, in any prior 69308  
performance record in the transportation, transfer, treatment, 69309  
storage, or disposal of solid wastes, infectious wastes, or 69310  
hazardous waste, has exhibited sufficient reliability, expertise, 69311  
and competency to operate the solid waste, infectious waste, or 69312  
hazardous waste facility, given the potential for harm to human 69313  
health and the environment that could result from the 69314  
irresponsible operation of the facility, or, if no prior record 69315  
exists, that the applicant is likely to exhibit that reliability, 69316  
expertise, and competence; 69317

(B) If any individual or business concern required to be 69318  
listed in the disclosure statement or shown to have a beneficial 69319  
interest in the business of the applicant or the permittee, other 69320  
than an equity interest or debt liability, by the investigation 69321  
thereof, has been convicted of any of the following crimes under 69322  
the laws of this state or equivalent laws of any other 69323  
jurisdiction: 69324

- (1) Murder; 69325
- (2) Kidnapping; 69326
- (3) Gambling; 69327
- (4) Robbery; 69328
- (5) Bribery; 69329
- (6) Extortion; 69330
- (7) Criminal usury; 69331

(8) Arson;	69332
(9) Burglary;	69333
(10) Theft and related crimes;	69334
(11) Forgery and fraudulent practices;	69335
(12) Fraud in the offering, sale, or purchase of securities;	69336
(13) Alteration of motor vehicle identification numbers;	69337
(14) Unlawful manufacture, purchase, use, or transfer of firearms;	69338 69339
(15) Unlawful possession or use of destructive devices or explosives;	69340 69341
(16) A violation of section 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.32, or 2925.37 or Chapter 3719. of the Revised Code, unless the violation is for possession of less than one hundred grams of marihuana, less than five grams of marihuana resin or extraction or preparation of marihuana resin, or less than one gram of marihuana resin in a liquid concentrate, liquid extract, or liquid distillate form;	69342 69343 69344 69345 69346 69347 69348
(17) Engaging in a pattern of corrupt activity under section 2923.32 of the Revised Code;	69349 69350
(18) A violation of the criminal provisions of Chapter 1331. of the Revised Code;	69351 69352
(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;	69353 69354 69355 69356
(20) A violation of any provision of Chapter 2909. of the Revised Code;	69357 69358
(21) Any offense specified in Chapter 2921. of the Revised Code.	69359 69360

(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 community control sanction imposed under section 2929.15 of the Revised Code, 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 July 1, 1996. In determining whether an applicant has affirmatively demonstrated rehabilitation, the director, ~~the hazardous waste facility board,~~ or the board of health shall request a recommendation on the matter from the attorney general and shall consider and base the determination on the following factors:

- (1) The nature and responsibilities of the position a convicted individual would hold;
- (2) The nature and seriousness of the offense;
- (3) The circumstances under which the offense occurred;
- (4) The date of the offense;
- (5) The age of the individual when the offense was committed;
- (6) Whether the offense was an isolated or repeated incident;

(7) Any social conditions that may have contributed to the offense; 69391  
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(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work release programs, or the recommendation of persons who have or have had the applicant under their supervision; 69393  
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(9) In the instance of an applicant that is a business concern, rehabilitation shall be established if the applicant has implemented formal management controls to minimize and prevent the occurrence of violations and activities that will or may result in permit or license denial or revocation or if the applicant has formalized those controls as a result of a revocation or denial of a permit or license. Those controls may include, but are not limited to, instituting environmental auditing programs to help ensure the adequacy of internal systems to achieve, maintain, and monitor compliance with applicable environmental laws and standards or instituting an antitrust compliance auditing program to help ensure full compliance with applicable antitrust laws. The business concern shall prove by a preponderance of the evidence that the management controls are effective in preventing the violations that are the subject of concern. 69399  
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(D) Unless the director, ~~the hazardous waste facility board,~~ or the board of health finds that the applicant has a history of compliance with environmental laws in this state and other jurisdictions and is presently in substantial compliance with, or on a legally enforceable schedule that will result in compliance with, environmental laws in this state and other jurisdictions; 69414  
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(E) With respect to the approval of a permit, if the director ~~or the hazardous waste facility board~~ determines that current 69420  
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prosecutions or pending charges in any jurisdiction for any of the 69422  
offenses enumerated in division (B) of this section against any 69423  
individual or business concern required to be listed in the 69424  
disclosure statement or shown by the investigation to have a 69425  
beneficial interest in the business of the applicant other than an 69426  
equity interest or debt liability are of such magnitude that they 69427  
prevent making the finding required under division (A) of this 69428  
section, provided that at the request of the applicant or the 69429  
individual or business concern charged, the director ~~or the~~ 69430  
~~hazardous waste facility board~~ shall defer decision upon the 69431  
application during the pendency of the charge. 69432

**Section 3.06E.** That the existing version of section 3734.44 69433  
of the Revised Code that is scheduled to take effect on January 1, 69434  
2004, is hereby repealed. 69435

**Section 3.06F.** Sections 3.06D and 3.06E of this act take 69436  
effect January 1, 2004. 69437

**Section 3.07.** That the versions of sections 307.93, 2152.19, 69438  
2929.38, 4511.33, and 4511.75 of the Revised Code that are 69439  
scheduled to take effect January 1, 2004, be amended to read as 69440  
follows: 69441

**Sec. 307.93.** (A) The boards of county commissioners of two or 69442  
more adjacent counties may contract for the joint establishment of 69443  
a multicounty correctional center, and the board of county 69444  
commissioners of a county or the boards of two or more counties 69445  
may contract with any municipal corporation or municipal 69446  
corporations located in that county or those counties for the 69447  
joint establishment of a municipal-county or multicounty-municipal 69448  
correctional center. The center shall augment county and, where 69449  
applicable, municipal jail programs and facilities by providing 69450

custody and rehabilitative programs for those persons under the 69451  
charge of the sheriff of any of the contracting counties or of the 69452  
officer or officers of the contracting municipal corporation or 69453  
municipal corporations having charge of persons incarcerated in 69454  
the municipal jail, workhouse, or other correctional facility who, 69455  
in the opinion of the sentencing court, need programs of custody 69456  
and rehabilitation not available at the county or municipal jail 69457  
and by providing custody and rehabilitative programs in accordance 69458  
with division (C) of this section, if applicable. The contract may 69459  
include, but need not be limited to, provisions regarding the 69460  
acquisition, construction, maintenance, repair, termination of 69461  
operations, and administration of the center. The contract shall 69462  
prescribe the manner of funding of, and debt assumption for, the 69463  
center and the standards and procedures to be followed in the 69464  
operation of the center. Except as provided in division (H) of 69465  
this section, the contracting counties and municipal corporations 69466  
shall form a corrections commission to oversee the administration 69467  
of the center. Members of the commission shall consist of the 69468  
sheriff of each participating county, the president of the board 69469  
of county commissioners of each participating county, the 69470  
presiding judge of the court of common pleas of each participating 69471  
county, or, if the court of common pleas of a participating county 69472  
has only one judge, then that judge, the chief of police of each 69473  
participating municipal corporation, the mayor or city manager of 69474  
each participating municipal corporation, and the presiding judge 69475  
or the sole judge of the municipal court of each participating 69476  
municipal corporation. Any of the foregoing officers may appoint a 69477  
designee to serve in the officer's place on the corrections 69478  
commission. The standards and procedures shall be formulated and 69479  
agreed to by the commission and may be amended at any time during 69480  
the life of the contract by agreement of the parties to the 69481  
contract upon the advice of the commission. The standards and 69482  
procedures formulated by the commission shall include, but need 69483



not be limited to, designation of the person in charge of the 69484  
center, the categories of employees to be employed at the center, 69485  
the appointing authority of the center, and the standards of 69486  
treatment and security to be maintained at the center. The person 69487  
in charge of, and all persons employed to work at, the center 69488  
shall have all the powers of police officers that are necessary 69489  
for the proper performance of the duties relating to their 69490  
positions at the center. 69491

(B) Each board of county commissioners that enters a contract 69492  
under division (A) of this section may appoint a building 69493  
commission pursuant to section 153.21 of the Revised Code. If any 69494  
commissions are appointed, they shall function jointly in the 69495  
construction of a multicounty or multicounty-municipal 69496  
correctional center with all the powers and duties authorized by 69497  
law. 69498

(C) Prior to the acceptance for custody and rehabilitation 69499  
into a center established under this section of any persons who 69500  
are designated by the department of rehabilitation and correction, 69501  
who plead guilty to or are convicted of a felony of the fourth or 69502  
fifth degree, and who satisfy the other requirements listed in 69503  
section 5120.161 of the Revised Code, the corrections commission 69504  
of a center established under this section shall enter into an 69505  
agreement with the department of rehabilitation and correction 69506  
under section 5120.161 of the Revised Code for the custody and 69507  
rehabilitation in the center of persons who are designated by the 69508  
department, who plead guilty to or are convicted of a felony of 69509  
the fourth or fifth degree, and who satisfy the other requirements 69510  
listed in that section, in exchange for a per diem fee per person. 69511  
Persons incarcerated in the center pursuant to an agreement 69512  
entered into under this division shall be subject to supervision 69513  
and control in the manner described in section 5120.161 of the 69514  
Revised Code. This division does not affect the authority of a 69515

court to directly sentence a person who is convicted of or pleads 69516  
guilty to a felony to the center in accordance with section 69517  
2929.16 of the Revised Code. 69518

(D) Pursuant to section 2929.37 of the Revised Code, each 69519  
board of county commissioners and the legislative authority of 69520  
each municipal corporation that enters into a contract under 69521  
division (A) of this section may require a person who was 69522  
convicted of an offense, who is under the charge of the sheriff of 69523  
their county or of the officer or officers of the contracting 69524  
municipal corporation or municipal corporations having charge of 69525  
persons incarcerated in the municipal jail, workhouse, or other 69526  
correctional facility, and who is confined in the multicounty, 69527  
municipal-county, or multicounty-municipal correctional center as 69528  
provided in that division, to reimburse the applicable county or 69529  
municipal corporation for its expenses incurred by reason of the 69530  
person's confinement in the center. 69531

(E) Notwithstanding any contrary provision in this section or 69532  
section 2929.18, 2929.28, or 2929.37 of the Revised Code, the 69533  
corrections commission of a center may establish a policy that 69534  
complies with section 2929.38 of the Revised Code and that 69535  
requires any person who is not indigent and who is confined in the 69536  
multicounty, municipal-county, or multicounty-municipal 69537  
correctional center to pay a reception fee, a fee for medical 69538  
treatment or service requested by and provided to that person, or 69539  
the fee for a random drug test assessed under division (E) of 69540  
section 341.26 of the Revised Code. 69541

(F)(1) The corrections commission of a center established 69542  
under this section may establish a commissary for the center. The 69543  
commissary may be established either in-house or by another 69544  
arrangement. If a commissary is established, all persons 69545  
incarcerated in the center shall receive commissary privileges. A 69546  
person's purchases from the commissary shall be deducted from the 69547

person's account record in the center's business office. The 69548  
commissary shall provide for the distribution to indigent persons 69549  
incarcerated in the center of necessary hygiene articles and 69550  
writing materials. 69551

(2) If a commissary is established, the corrections 69552  
commission of a center established under this section shall 69553  
establish a commissary fund for the center. The management of 69554  
funds in the commissary fund shall be strictly controlled in 69555  
accordance with procedures adopted by the auditor of state. 69556  
Commissary fund revenue over and above operating costs and reserve 69557  
shall be considered profits. All profits from the commissary fund 69558  
shall be used to purchase supplies and equipment for the benefit 69559  
of persons incarcerated in the center and to pay salary and 69560  
benefits for employees of the center, or for any other persons, 69561  
who work in or are employed for the sole purpose of providing 69562  
service to the commissary. The corrections commission shall adopt 69563  
rules and regulations for the operation of any commissary fund it 69564  
establishes. 69565

(G) In lieu of forming a corrections commission to administer 69566  
a multicounty correctional center or a municipal-county or 69567  
multicounty-municipal correctional center, the boards of county 69568  
commissioners and the legislative authorities of the municipal 69569  
corporations contracting to establish the center may also agree to 69570  
contract for the private operation and management of the center as 69571  
provided in section 9.06 of the Revised Code, but only if the 69572  
center houses only misdemeanor inmates. In order to enter into a 69573  
contract under section 9.06 of the Revised Code, all the boards 69574  
and legislative authorities establishing the center shall approve 69575  
and be parties to the contract. 69576

(H) If a person who is convicted of or pleads guilty to an 69577  
offense is sentenced to a term in a multicounty correctional 69578  
center or a municipal-county or multicounty-municipal correctional 69579

center or is incarcerated in the center in the manner described in 69580  
division (C) of this section, or if a person who is arrested for 69581  
an offense, and who has been denied bail or has had bail set and 69582  
has not been released on bail is confined in a multicounty 69583  
correctional center or a municipal-county or multicounty-municipal 69584  
correctional center pending trial, at the time of reception and at 69585  
other times the officer, officers, or other person in charge of 69586  
the operation of the center determines to be appropriate, the 69587  
officer, officers, or other person in charge of the operation of 69588  
the center may cause the convicted or accused offender to be 69589  
examined and tested for tuberculosis, HIV infection, hepatitis, 69590  
including but not limited to hepatitis A, B, and C, and other 69591  
contagious diseases. The officer, officers, or other person in 69592  
charge of the operation of the center may cause a convicted or 69593  
accused offender in the center who refuses to be tested or treated 69594  
for tuberculosis, HIV infection, hepatitis, including but not 69595  
limited to hepatitis A, B, and C, or another contagious disease to 69596  
be tested and treated involuntarily. 69597

(I) As used in this section, "multicounty-municipal" means 69598  
more than one county and a municipal corporation, or more than one 69599  
municipal corporation and a county, or more than one municipal 69600  
corporation and more than one county. 69601

**Sec. 2152.19.** (A) If a child is adjudicated a delinquent 69602  
child, the court may make any of the following orders of 69603  
disposition, in addition to any other disposition authorized or 69604  
required by this chapter: 69605

(1) Any order that is authorized by section 2151.353 of the 69606  
Revised Code for the care and protection of an abused, neglected, 69607  
or dependent child; 69608

(2) Commit the child to the temporary custody of any school, 69609  
camp, institution, or other facility operated for the care of 69610

delinquent children by the county, by a district organized under 69611  
section 2152.41 or 2151.65 of the Revised Code, or by a private 69612  
agency or organization, within or without the state, that is 69613  
authorized and qualified to provide the care, treatment, or 69614  
placement required, including, but not limited to, a school, camp, 69615  
or facility operated under section 2151.65 of the Revised Code; 69616

(3) Place the child in a detention facility or district 69617  
detention facility operated under section 2152.41 of the Revised 69618  
Code, for up to ninety days; 69619

(4) Place the child on community control under any sanctions, 69620  
services, and conditions that the court prescribes. As a condition 69621  
of community control in every case and in addition to any other 69622  
condition that it imposes upon the child, the court shall require 69623  
the child to abide by the law during the period of community 69624  
control. As referred to in this division, community control 69625  
includes, but is not limited to, the following sanctions and 69626  
conditions: 69627

(a) A period of basic probation supervision in which the 69628  
child is required to maintain contact with a person appointed to 69629  
supervise the child in accordance with sanctions imposed by the 69630  
court; 69631

(b) A period of intensive probation supervision in which the 69632  
child is required to maintain frequent contact with a person 69633  
appointed by the court to supervise the child while the child is 69634  
seeking or maintaining employment and participating in training, 69635  
education, and treatment programs as the order of disposition; 69636

(c) A period of day reporting in which the child is required 69637  
each day to report to and leave a center or another approved 69638  
reporting location at specified times in order to participate in 69639  
work, education or training, treatment, and other approved 69640  
programs at the center or outside the center; 69641

(d) A period of community service of up to five hundred hours 69642  
for an act that would be a felony or a misdemeanor of the first 69643  
degree if committed by an adult, up to two hundred hours for an 69644  
act that would be a misdemeanor of the second, third, or fourth 69645  
degree if committed by an adult, or up to thirty hours for an act 69646  
that would be a minor misdemeanor if committed by an adult; 69647

(e) A requirement that the child obtain a high school 69648  
diploma, a certificate of high school equivalence, vocational 69649  
training, or employment; 69650

(f) A period of drug and alcohol use monitoring; 69651

(g) A requirement of alcohol or drug assessment or 69652  
counseling, or a period in an alcohol or drug treatment program 69653  
with a level of security for the child as determined necessary by 69654  
the court; 69655

(h) A period in which the court orders the child to observe a 69656  
curfew that may involve daytime or evening hours; 69657

(i) A requirement that the child serve monitored time; 69658

(j) A period of house arrest with or without electronic 69659  
monitoring; 69660

(k) A period of electronic monitoring without house arrest or 69661  
electronically monitored house arrest that does not exceed the 69662  
maximum sentence of imprisonment that could be imposed upon an 69663  
adult who commits the same act. 69664

A period of electronically monitored house arrest imposed 69665  
under this division shall not extend beyond the child's 69666  
twenty-first birthday. If a court imposes a period of 69667  
electronically monitored house arrest upon a child under this 69668  
division, it shall require the child: to wear, otherwise have 69669  
attached to the child's person, or otherwise be subject to 69670  
monitoring by a certified electronic monitoring device or to 69671

participate in the operation of and monitoring by a certified 69672  
electronic monitoring system; to remain in the child's home or 69673  
other specified premises for the entire period of electronically 69674  
monitored house arrest except when the court permits the child to 69675  
leave those premises to go to school or to other specified 69676  
premises; to be monitored by a central system that can determine 69677  
the child's location at designated times; to report periodically 69678  
to a person designated by the court; and to enter into a written 69679  
contract with the court agreeing to comply with all requirements 69680  
imposed by the court, agreeing to pay any fee imposed by the court 69681  
for the costs of the electronically monitored house arrest, and 69682  
agreeing to waive the right to receive credit for any time served 69683  
on electronically monitored house arrest toward the period of any 69684  
other dispositional order imposed upon the child if the child 69685  
violates any of the requirements of the dispositional order of 69686  
electronically monitored house arrest. The court also may impose 69687  
other reasonable requirements upon the child. 69688

Unless ordered by the court, a child shall not receive credit 69689  
for any time served on electronically monitored house arrest 69690  
toward any other dispositional order imposed upon the child for 69691  
the act for which was imposed the dispositional order of 69692  
electronically monitored house arrest. 69693

(1) A suspension of the driver's license, probationary 69694  
driver's license, or temporary instruction permit issued to the 69695  
child or a suspension of the registration of all motor vehicles 69696  
registered in the name of the child. A child whose license or 69697  
permit is so suspended is ineligible for issuance of a license or 69698  
permit during the period of suspension. At the end of the period 69699  
of suspension, the child shall not be reissued a license or permit 69700  
until the child has paid any applicable reinstatement fee and 69701  
complied with all requirements governing license reinstatement. 69702

(5) Commit the child to the custody of the court; 69703

(6) Require the child to not be absent without legitimate  
excuse from the public school the child is supposed to attend for  
five or more consecutive days, seven or more school days in one  
school month, or twelve or more school days in a school year;

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(7)(a) If a child is adjudicated a delinquent child for being  
a chronic truant or an habitual truant who previously has been  
adjudicated an unruly child for being a habitual truant, do either  
or both of the following:

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(i) Require the child to participate in a truancy prevention  
mediation program;

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(ii) Make any order of disposition as authorized by this  
section, except that the court shall not commit the child to a  
facility described in division (A)(2) or (3) of this section  
unless the court determines that the child violated a lawful court  
order made pursuant to division (C)(1)(e) of section 2151.354 of  
the Revised Code or division (A)(6) of this section.

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(b) If a child is adjudicated a delinquent child for being a  
chronic truant or a habitual truant who previously has been  
adjudicated an unruly child for being a habitual truant and the  
court determines that the parent, guardian, or other person having  
care of the child has failed to cause the child's attendance at  
school in violation of section 3321.38 of the Revised Code, do  
either or both of the following:

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(i) Require the parent, guardian, or other person having care  
of the child to participate in a truancy prevention mediation  
program;

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(ii) Require the parent, guardian, or other person having  
care of the child to participate in any community service program,  
preferably a community service program that requires the  
involvement of the parent, guardian, or other person having care  
of the child in the school attended by the child.

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(8) Make any further disposition that the court finds proper, 69735  
except that the child shall not be placed in any of the following: 69736

(a) A state correctional institution, a county, multicounty, 69737  
or municipal jail or workhouse, or another place in which an adult 69738  
convicted of a crime, under arrest, or charged with a crime is 69739  
held; 69740

(b) A community corrections facility, if the child would be 69741  
covered by the definition of public safety beds for purposes of 69742  
sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code if the 69743  
court exercised its authority to commit the child to the legal 69744  
custody of the department of youth services for 69745  
institutionalization or institutionalization in a secure facility 69746  
pursuant to this chapter. 69747

(B) If a child is adjudicated a delinquent child, in addition 69748  
to any order of disposition made under division (A) of this 69749  
section, the court, in the following situations, shall suspend the 69750  
child's temporary instruction permit, restricted license, 69751  
probationary driver's license, or nonresident operating privilege, 69752  
or suspend the child's ability to obtain such a permit: 69753

(1) The child is adjudicated a delinquent child for violating 69754  
section 2923.122 of the Revised Code, with the suspension and 69755  
denial being in accordance with division (E)(1)(a), (c), (d), or 69756  
(e) of section 2923.122 of the Revised Code. 69757

(2) The child is adjudicated a delinquent child for 69758  
committing an act that if committed by an adult would be a drug 69759  
abuse offense or for violating division (B) of section 2917.11 of 69760  
the Revised Code, with the suspension continuing until the child 69761  
attends and satisfactorily completes a drug abuse or alcohol abuse 69762  
education, intervention, or treatment program specified by the 69763  
court. During the time the child is attending the program, the 69764  
court shall retain any temporary instruction permit, probationary 69765

driver's license, or driver's license issued to the child, and the 69766  
court shall return the permit or license when the child 69767  
satisfactorily completes the program. 69768

(C) The court may establish a victim-offender mediation 69769  
program in which victims and their offenders meet to discuss the 69770  
offense and suggest possible restitution. If the court obtains the 69771  
assent of the victim of the delinquent act committed by the child, 69772  
the court may require the child to participate in the program. 69773

(D)(1) If a child is adjudicated a delinquent child for 69774  
committing an act that would be a felony if committed by an adult 69775  
and if the child caused, attempted to cause, threatened to cause, 69776  
or created a risk of physical harm to the victim of the act, the 69777  
court, prior to issuing an order of disposition under this 69778  
section, shall order the preparation of a victim impact statement 69779  
by the probation department of the county in which the victim of 69780  
the act resides, by the court's own probation department, or by a 69781  
victim assistance program that is operated by the state, a county, 69782  
a municipal corporation, or another governmental entity. The court 69783  
shall consider the victim impact statement in determining the 69784  
order of disposition to issue for the child. 69785

(2) Each victim impact statement shall identify the victim of 69786  
the act for which the child was adjudicated a delinquent child, 69787  
itemize any economic loss suffered by the victim as a result of 69788  
the act, identify any physical injury suffered by the victim as a 69789  
result of the act and the seriousness and permanence of the 69790  
injury, identify any change in the victim's personal welfare or 69791  
familial relationships as a result of the act and any 69792  
psychological impact experienced by the victim or the victim's 69793  
family as a result of the act, and contain any other information 69794  
related to the impact of the act upon the victim that the court 69795  
requires. 69796

(3) A victim impact statement shall be kept confidential and 69797

is not a public record. However, the court may furnish copies of 69798  
the statement to the department of youth services if the 69799  
delinquent child is committed to the department or to both the 69800  
adjudicated delinquent child or the adjudicated delinquent child's 69801  
counsel and the prosecuting attorney. The copy of a victim impact 69802  
statement furnished by the court to the department pursuant to 69803  
this section shall be kept confidential and is not a public 69804  
record. If an officer is preparing pursuant to section 2947.06 or 69805  
2951.03 of the Revised Code or Criminal Rule 32.2 a presentence 69806  
investigation report pertaining to a person, the court shall make 69807  
available to the officer, for use in preparing the report, a copy 69808  
of any victim impact statement regarding that person. The copies 69809  
of a victim impact statement that are made available to the 69810  
adjudicated delinquent child or the adjudicated delinquent child's 69811  
counsel and the prosecuting attorney pursuant to this division 69812  
shall be returned to the court by the person to whom they were 69813  
made available immediately following the imposition of an order of 69814  
disposition for the child under this chapter. 69815

The copy of a victim impact statement that is made available 69816  
pursuant to this division to an officer preparing a criminal 69817  
presentence investigation report shall be returned to the court by 69818  
the officer immediately following its use in preparing the report. 69819

(4) The department of youth services shall work with local 69820  
probation departments and victim assistance programs to develop a 69821  
standard victim impact statement. 69822

(E) If a child is adjudicated a delinquent child for being a 69823  
chronic truant or an habitual truant who previously has been 69824  
adjudicated an unruly child for being an habitual truant and the 69825  
court determines that the parent, guardian, or other person having 69826  
care of the child has failed to cause the child's attendance at 69827  
school in violation of section 3321.38 of the Revised Code, in 69828  
addition to any order of disposition it makes under this section, 69829

the court shall warn the parent, guardian, or other person having 69830  
care of the child that any subsequent adjudication of the child as 69831  
an unruly or delinquent child for being an habitual or chronic 69832  
truant may result in a criminal charge against the parent, 69833  
guardian, or other person having care of the child for a violation 69834  
of division (C) of section 2919.21 or section 2919.24 of the 69835  
Revised Code. 69836

(F)(1) During the period of a delinquent child's community 69837  
control granted under this section, authorized probation officers 69838  
who are engaged within the scope of their supervisory duties or 69839  
responsibilities may search, with or without a warrant, the person 69840  
of the delinquent child, the place of residence of the delinquent 69841  
child, and a motor vehicle, another item of tangible or intangible 69842  
personal property, or other real property in which the delinquent 69843  
child has a right, title, or interest or for which the delinquent 69844  
child has the express or implied permission of a person with a 69845  
right, title, or interest to use, occupy, or possess if the 69846  
probation officers have reasonable grounds to believe that the 69847  
delinquent child is not abiding by the law or otherwise is not 69848  
complying with the conditions of the delinquent child's community 69849  
control. The court that places a delinquent child on community 69850  
control under this section shall provide the delinquent child with 69851  
a written notice that informs the delinquent child that authorized 69852  
probation officers who are engaged within the scope of their 69853  
supervisory duties or responsibilities may conduct those types of 69854  
searches during the period of community control if they have 69855  
reasonable grounds to believe that the delinquent child is not 69856  
abiding by the law or otherwise is not complying with the 69857  
conditions of the delinquent child's community control. The court 69858  
also shall provide the written notice described in division (E)(2) 69859  
of this section to each parent, guardian, or custodian of the 69860  
delinquent child who is described in that division. 69861

(2) The court that places a child on community control under this section shall provide the child's parent, guardian, or other custodian with a written notice that informs them that authorized probation officers may conduct searches pursuant to division (E)(1) of this section. The notice shall specifically state that a permissible search might extend to a motor vehicle, another item of tangible or intangible personal property, or a place of residence or other real property in which a notified parent, guardian, or custodian has a right, title, or interest and that the parent, guardian, or custodian expressly or impliedly permits the child to use, occupy, or possess.

(G) If a juvenile court commits a delinquent child to the custody of any person, organization, or entity pursuant to this section and if the delinquent act for which the child is so committed is a sexually oriented offense, the court in the order of disposition shall do one of the following:

(1) Require that the child be provided treatment as described in division (A)(2) of section 5139.13 of the Revised Code;

(2) Inform the person, organization, or entity that it is the preferred course of action in this state that the child be provided treatment as described in division (A)(2) of section 5139.13 of the Revised Code and encourage the person, organization, or entity to provide that treatment.

**Sec. 2929.38.** (A) A board of commissioners of a county, in an agreement with the sheriff, a legislative authority of a municipal corporation, a corrections commission, a judicial corrections board, or any other public or private entity that operates a local detention facility described in division (A) of section 2929.37 of the Revised Code, may establish a policy that requires any prisoner who is confined in the facility as a result of pleading guilty to or having been convicted of an offense to pay a one-time

reception fee for the costs of processing the prisoner into the 69893  
facility at the time of the prisoner's initial entry into the 69894  
facility under the confinement in question, to pay a reasonable 69895  
fee for any medical or dental treatment or service requested by 69896  
and provided to that prisoner, and to pay the fee for a random 69897  
drug test assessed under division (E) of section 341.26, and 69898  
division (E) of section 753.33 of the Revised Code. The fee for 69899  
the medical treatment or service shall not exceed the actual cost 69900  
of the treatment or service provided. No prisoner confined in the 69901  
local detention facility shall be denied any necessary medical 69902  
care because of inability to pay the fees. 69903

(B) Upon assessment of a one-time reception fee as described 69904  
in division (A) of this section, the provision of the requested 69905  
medical treatment or service, or the assessment of a fee for a 69906  
random drug test, payment of the required fee may be automatically 69907  
deducted from the prisoner's inmate account in the business office 69908  
of the local detention facility in which the prisoner is confined. 69909  
If there is no money in the account, a deduction may be made at a 69910  
later date during the prisoner's confinement if the money becomes 69911  
available in the account. If, after release, the prisoner has an 69912  
unpaid balance of those fees, the sheriff, legislative authority 69913  
of the municipal corporation, corrections commission, judicial 69914  
corrections board, or other entity that operates the local 69915  
detention facility described in division (A) of section 2929.37 of 69916  
the Revised Code may bill the prisoner for the payment of the 69917  
unpaid fees. Fees received for medical or dental treatment or 69918  
services shall be paid to the commissary fund, if one exists for 69919  
the facility, or if no commissary fund exists, to the general fund 69920  
of the treasury of the political subdivision that incurred the 69921  
expenses, in the same proportion as those expenses were borne by 69922  
the political subdivision. Fees received for medical treatment or 69923  
services that are placed in the commissary fund under this 69924  
division shall be used for the same purposes as profits from the 69925

commissary fund, except that they shall not be used to pay any 69926  
salary or benefits of any person who works in or is employed for 69927  
the sole purpose of providing service to the commissary. 69928

(C) Any fee paid by a person under this section shall be 69929  
deducted from any medical or dental costs that the person is 69930  
ordered to reimburse under a financial sanction imposed pursuant 69931  
to section 2929.28 of the Revised Code or to repay under a policy 69932  
adopted under section 2929.37 of the Revised Code. 69933

(D) As used in this section, "inmate account" has the same 69934  
meaning as in section 2969.21 of the Revised Code. 69935

**Sec. 4511.33.** (A) Whenever any roadway has been divided into 69936  
two or more clearly marked lanes for traffic, or wherever within 69937  
municipal corporations traffic is lawfully moving in two or more 69938  
substantially continuous lines in the same direction, the 69939  
following rules apply: 69940

(1) A vehicle or trackless trolley shall be driven, as nearly 69941  
as is practicable, entirely within a single lane or line of 69942  
traffic and shall not be moved from such lane or line until the 69943  
driver has first ascertained that such movement can be made with 69944  
safety. 69945

(2) Upon a roadway which is divided into three lanes and 69946  
provides for two-way movement of traffic, a vehicle or trackless 69947  
trolley shall not be driven in the center lane except when 69948  
overtaking and passing another vehicle or trackless trolley where 69949  
the roadway is clearly visible and such center lane is clear of 69950  
traffic within a safe distance, or when preparing for a left turn, 69951  
or where such center lane is at the time allocated exclusively to 69952  
traffic moving in the direction the vehicle or trackless trolley 69953  
is proceeding and is posted with signs to give notice of such 69954  
allocation. 69955

(3) Official signs may be erected directing specified traffic 69956  
to use a designated lane or designating those lanes to be used by 69957  
traffic moving in a particular direction regardless of the center 69958  
of the roadway, or restricting the use of a particular lane to 69959  
only buses during certain hours or during all hours, and drivers 69960  
of vehicles and trackless trolleys shall obey the directions of 69961  
such signs. 69962

(4) Official traffic control devices may be installed 69963  
prohibiting the changing of lanes on sections of roadway and 69964  
drivers of vehicles shall obey the directions of every such 69965  
device. 69966

(B) Except as otherwise provided in this division, whoever 69967  
violates this section is guilty of a minor misdemeanor. If, within 69968  
one year of the offense, the offender previously has been 69969  
convicted of or pleaded guilty to one predicate motor vehicle or 69970  
traffic offense, whoever violates this section is guilty of a 69971  
misdemeanor of the fourth degree. If, within one year of the 69972  
offense, the offender previously has been convicted of two or more 69973  
predicate motor vehicle or traffic offenses, whoever violates this 69974  
section is guilty of a misdemeanor of the third degree. 69975

**Sec. 4511.75.** (A) The driver of a vehicle, streetcar, or 69976  
trackless trolley upon meeting or overtaking from either direction 69977  
any school bus stopped for the purpose of receiving or discharging 69978  
any school child, person attending programs offered by community 69979  
boards of mental health and county boards of mental retardation 69980  
and developmental disabilities, or child attending a program 69981  
offered by a head start agency, shall stop at least ten feet from 69982  
the front or rear of the school bus and shall not proceed until 69983  
such school bus resumes motion, or until signaled by the school 69984  
bus driver to proceed. 69985

It is no defense to a charge under this division that the 69986



school bus involved failed to display or be equipped with an 69987  
automatically extended stop warning sign as required by division 69988  
(B) of this section. 69989

(B) Every school bus shall be equipped with amber and red 69990  
visual signals meeting the requirements of section 4511.771 of the 69991  
Revised Code, and an automatically extended stop warning sign of a 69992  
type approved by the state board of education, which shall be 69993  
actuated by the driver of the bus whenever but only whenever the 69994  
bus is stopped or stopping on the roadway for the purpose of 69995  
receiving or discharging school children, persons attending 69996  
programs offered by community boards of mental health and county 69997  
boards of mental retardation and developmental disabilities, or 69998  
children attending programs offered by head start agencies. A 69999  
school bus driver shall not actuate the visual signals or the stop 70000  
warning sign in designated school bus loading areas where the bus 70001  
is entirely off the roadway or at school buildings when children 70002  
or persons attending programs offered by community boards of 70003  
mental health and county boards of mental retardation and 70004  
developmental disabilities are loading or unloading at curbside or 70005  
at buildings when children attending programs offered by head 70006  
start agencies are loading or unloading at curbside. The visual 70007  
signals and stop warning sign shall be synchronized or otherwise 70008  
operated as required by rule of the board. 70009

(C) Where a highway has been divided into four or more 70010  
traffic lanes, a driver of a vehicle, streetcar, or trackless 70011  
trolley need not stop for a school bus approaching from the 70012  
opposite direction which has stopped for the purpose of receiving 70013  
or discharging any school child, persons attending programs 70014  
offered by community boards of mental health and county boards of 70015  
mental retardation and developmental disabilities, or children 70016  
attending programs offered by head start agencies. The driver of 70017  
any vehicle, streetcar, or trackless trolley overtaking the school 70018

bus shall comply with division (A) of this section. 70019

(D) School buses operating on divided highways or on highways 70020  
with four or more traffic lanes shall receive and discharge all 70021  
school children, persons attending programs offered by community 70022  
boards of mental health and county boards of mental retardation 70023  
and developmental disabilities, and children attending programs 70024  
offered by head start agencies on their residence side of the 70025  
highway. 70026

(E) No school bus driver shall start the driver's bus until 70027  
after any child, person attending programs offered by community 70028  
boards of mental health and county boards of mental retardation 70029  
and developmental disabilities, or child attending a program 70030  
offered by a head start agency who may have alighted therefrom has 70031  
reached a place of safety on the child's or person's residence 70032  
side of the road. 70033

(F)(1) Whoever violates division (A) of this section may be 70034  
fined an amount not to exceed five hundred dollars. A person who 70035  
is issued a citation for a violation of division (A) of this 70036  
section is not permitted to enter a written plea of guilty and 70037  
waive the person's right to contest the citation in a trial but 70038  
instead must appear in person in the proper court to answer the 70039  
charge. 70040

(2) In addition to and independent of any other penalty 70041  
provided by law, the court or mayor may impose upon an offender 70042  
who violates this section a class seven suspension of the 70043  
offender's driver's license, commercial driver's license, 70044  
temporary instruction permit, probationary license, or nonresident 70045  
operating privilege from the range specified in division (A)(7) of 70046  
section 4510.02 of the Revised Code. When a license is suspended 70047  
under this section, the court or mayor shall cause the offender to 70048  
deliver the license to the court, and the court or clerk of the 70049  
court immediately shall forward the license to the registrar of 70050

motor vehicles, together with notice of the court's action. 70051

(G) As used in this section: 70052

(1) "Head start agency" has the same meaning as in ~~division~~ 70053  
~~(A)(1)~~ of section 3301.31 of the Revised Code. 70054

(2) "School bus," as used in relation to children who attend 70055  
a program offered by a head start agency, means a bus that is 70056  
owned and operated by a head start agency, is equipped with an 70057  
automatically extended stop warning sign of a type approved by the 70058  
state board of education, is painted the color and displays the 70059  
markings described in section 4511.77 of the Revised Code, and is 70060  
equipped with amber and red visual signals meeting the 70061  
requirements of section 4511.771 of the Revised Code, irrespective 70062  
of whether or not the bus has fifteen or more children aboard at 70063  
any time. "School bus" does not include a van owned and operated 70064  
by a head start agency, irrespective of its color, lights, or 70065  
markings. 70066

**Section 3.08.** That the existing versions of sections 307.93, 70067  
2152.19, 2929.38, 4511.33, and 4511.75 of the Revised Code that 70068  
are scheduled to take effect January 1, 2004, are hereby repealed. 70069

**Section 3.09.** Sections 3.07 and 3.08 of this act take effect 70070  
January 1, 2004, except section 4511.75 of the Revised Code, as 70071  
amended in those sections of this act, takes effect July 1, 2004. 70072  
The amendment of section 4511.75 of the Revised Code by those 70073  
sections of this act is not intended to supersede the amendment of 70074  
the version of section 4511.75 of the Revised Code that is 70075  
scheduled to take effect January 1, 2004. 70076

**Section 3.09A.** That the version of section 5739.033 of the 70077  
Revised Code as it results from Am. Sub. S.B. 143 of the 124th 70078  
General Assembly, as amended by H.B. 675 of the 124th General 70079

Assembly, be amended to read as follows: 70080

**Sec. 5739.033.** The amount of tax due pursuant to sections 70081  
5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is 70082  
the sum of the taxes imposed pursuant to those sections at the 70083  
~~situs~~ sourcing location of the sale as determined under this 70084  
section or, if applicable, under division (C) of section 5739.031 70085  
or section 5739.034 of the Revised Code. This section applies only 70086  
to a vendor's or seller's obligation to collect and remit sales 70087  
taxes under section 5739.02, 5739.021, 5739.023, or 5739.026 of 70088  
the Revised Code or use taxes under section 5741.02, 5741.021, 70089  
5741.022, or 5741.023 of the Revised Code. This section does not 70090  
affect the obligation of a consumer to remit use taxes on the 70091  
storage, use, or other consumption of tangible personal property 70092  
or on the benefit realized of any service provided, to the 70093  
jurisdiction of that storage, use, or consumption, or benefit 70094  
realized. 70095

(A) Except for sales, other than leases, of titled motor 70096  
vehicles, titled watercraft, or titled outboard motors as provided 70097  
in section 5741.05 of the Revised Code, or as otherwise provided 70098  
in this section and section 5739.034 of the Revised Code, ~~the~~ 70099  
~~situs~~ of all sales is the vendor's place of business. shall be 70100  
sourced as follows: 70101

(1) If the consumer or ~~the consumer's~~ a donee designated by 70102  
the consumer receives tangible personal property or a service at a 70103  
vendor's place of business ~~of the vendor~~, ~~the situs of~~ the sale ~~is~~ 70104  
shall be sourced to that place of business. 70105

(2) When the tangible personal property or service is not 70106  
received at a vendor's place of business, ~~the situs of~~ the sale ~~is~~ 70107  
shall be sourced to the location known to the vendor where the 70108  
consumer or ~~a~~ the donee designated by the consumer receives the 70109  
tangible personal property or service, including the location 70110

indicated by instructions for delivery to the consumer or the consumer's donee, ~~known to the vendor.~~

(3) If divisions (A)(1) and (2) of this section do not apply, ~~the situs of the sale is~~ shall be sourced to the location indicated by an address for the consumer that is available from the vendor's business records ~~of the vendor~~ that are maintained in the ordinary course of the vendor's business, when use of that address does not constitute bad faith.

(4) If divisions (A)(1), (2), and (3) of this section do not apply, ~~the situs of the sale is~~ shall be sourced to the location indicated by an address for the consumer obtained during the consummation of the sale, including the address associated with the consumer's payment instrument, if no other address is available, when use of that address does not constitute bad faith.

(5) If divisions (A)(1), (2), (3), and (4) of this section do not apply, including in the circumstance where the vendor is without sufficient information to apply any of those divisions, ~~the situs of the sale is~~ shall be sourced to the address from which tangible personal property was shipped, or from which the service was provided, disregarding any location that merely provided the electronic transfer of the property sold or service provided.

(6) As used in division (A) of this section, "receive" means taking possession of tangible personal property or making first use of a service. "Receive" does not include possession by a shipping company on behalf of a consumer.

(B)(1) Notwithstanding divisions (A)(1) to (5) of this section, a ~~manufacturer or other~~ consumer that is not a holder of a direct payment permit granted under section 5739.031 of the Revised Code, that purchases ~~tangible personal property~~ computer software delivered electronically or a service for use in

business, and that knows at the time of purchase that ~~the property~~ 70142  
such software or service will be concurrently available for use in 70143  
more than one taxing jurisdiction shall deliver to the vendor in 70144  
conjunction with its purchase a multiple points of use exemption 70145  
form prescribed by the tax commissioner disclosing this fact. On 70146  
receipt of the multiple points of use exemption form, the vendor 70147  
is relieved of its obligation to collect, pay, or remit the tax 70148  
due, and the consumer must ~~collect, pay, or remit~~ the tax directly 70149  
to the state. 70150

(2) A consumer that delivers such form to a vendor may use 70151  
any reasonable, consistent, and uniform method of apportioning the 70152  
tax due on the ~~tangible personal property~~ computer software 70153  
delivered electronically or service for use in business that is 70154  
supported by the consumer's business records as they existed at 70155  
the time of the sale. 70156

(3) The multiple points of use exemption form shall remain in 70157  
effect for all future sales by the vendor to the consumer until it 70158  
is revoked in writing by the consumer, except as to the consumer's 70159  
specific apportionment of a subsequent sale under division (B)(2) 70160  
of this section and the facts existing at the time of the sale. 70161

(C) A person who holds a direct payment permit issued under 70162  
section 5739.031 of the Revised Code is not required to deliver a 70163  
multiple points of use exemption form to a vendor. But such permit 70164  
holder shall comply with division (B)(2) of this section in 70165  
apportioning the tax due on ~~tangible personal property~~ computer 70166  
software delivered electronically or a service used in business 70167  
that will be concurrently available for use in more than one 70168  
taxing jurisdiction. 70169

(D) ~~Except as provided in division (F) of this section:~~ 70170

~~(1) If the vendor provides a service specified in division 70171  
(B)(3)(f) or (i) of section 5739.01 of the Revised Code, the situs 70172~~

~~of the sale is the location of the telephone number or account as reflected in the records of the vendor.~~ 70173  
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~~(2) In the case of a telecommunications service, if the telephone number or account is located outside this state, the situs of the sale is the location in this state from which the service originated (1) Notwithstanding divisions (A)(1) to (5) of this section, the purchaser of direct mail that is not a holder of a direct payment permit shall provide to the vendor in conjunction with the purchase either a direct mail form prescribed by the tax commissioner, or information to show the jurisdictions to which the direct mail is delivered to recipients.~~ 70175  
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~~(2) Upon receipt of a direct mail form, the vendor is relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser is obligated to pay that tax on a direct pay basis. A direct mail form shall remain in effect for all future sales of direct mail by the vendor to the purchaser until it is revoked in writing.~~ 70184  
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~~(3) Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the vendor shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the vendor is relieved of any further obligation to collect tax on any transaction where the vendor has collected tax pursuant to the delivery information provided by the purchaser.~~ 70190  
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~~(4) If the purchaser of direct mail does not have a direct payment permit and does not provide the vendor with either a direct mail form or delivery information as required by division (D)(1) of this section, the vendor shall collect the tax according to division (A)(5) of this section. Nothing in division (D)(4) of this section shall limit a purchaser's obligation to pay sales or use tax to any state to which the direct mail is delivered.~~ 70197  
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(5) If a purchaser of direct mail provides the vendor with documentation of direct payment authority, the purchaser shall not be required to provide a direct mail form or delivery information to the vendor. 70204  
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(E) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, ~~the situs of the sale is~~ shall be sourced to the location where the lodging is located. 70208  
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~~(F) Except as otherwise provided in this division, if the vendor sells a prepaid authorization number or a prepaid telephone calling card, the situs of the sale is the vendor's place of business and shall be taxed at the time of sale. If the vendor sells a prepaid authorization number or prepaid telephone calling card through a telephone call, electronic commerce, or any other form of remote commerce, the situs of the sale is the consumer's shipping address, or, if there is no item shipped, at the consumer's billing address~~ (1) As used in this division and division (G) of this section, "transportation equipment" means any of the following: 70212  
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(a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce. 70223  
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(b) Trucks and truck-tractors with a gross vehicle weight rating of greater than ten thousand pounds, trailers, semi-trailers, or passenger buses that are registered through the international registration plan and are operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce. 70225  
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(c) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or 70233  
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another federal authority to engage in the carriage of persons or property in interstate or foreign commerce. 70235  
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(d) Containers designed for use on and component parts attached to or secured on the items set forth in division (F)(1)(a), (b), or (c) of this section. 70237  
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(2) A sale, lease, or rental of transportation equipment shall be sourced pursuant to division (A) of this section. 70240  
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(G)(1) A lease or rental of tangible personal property that does not require recurring periodic payments shall be sourced pursuant to division (A) of this section. 70242  
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(2) A lease or rental of tangible personal property that requires recurring periodic payments shall be sourced as follows: 70245  
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(a) In the case of a motor vehicle, other than a motor vehicle that is transportation equipment, such lease or rental shall be sourced to the primary property location as follows: 70247  
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(i) For a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the primary property location is the address of the lessee or renter used for titling the motor vehicle pursuant to section 4505.06 of the Revised Code at the time the lease or rental is consummated. 70250  
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(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for each lease or rental installment is the primary property location for the period covered by the installment. 70255  
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(b) In the case of an aircraft, other than an aircraft that is transportation equipment, such lease or rental shall be sourced to the primary property location as follows: 70259  
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(i) For a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the primary property location is the primary property location at the time the lease or 70262  
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rental is consummated. 70265

(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for each lease or rental installment is the primary property location for the period covered by the installment. 70266  
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(c) In the case of a watercraft or an outboard motor required to be titled in this state pursuant to Chapter 1548. of the Revised Code, such lease or rental shall be sourced to the primary property location as follows: 70270  
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(i) For a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the primary property location is the address of the lessee or renter shown on the title. 70274  
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(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for the initial lease or rental installment is the address of the lessee or renter shown on the title. For each subsequent installment, the primary property location is the primary property location for the period covered by the installment. 70278  
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(d) In the case of a lease or rental of all other tangible personal property, other than transportation equipment, such lease or rental shall be sourced as follows: 70285  
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(i) For a lease or rental that is taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the lease or rental shall be sourced pursuant to division (A) of this section at the time the lease or rental is consummated. 70288  
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(ii) For a lease or rental that is taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the initial lease or rental installment shall be sourced pursuant to division (A) of this section. Each subsequent installment shall be sourced to the 70292  
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primary property location for the period covered by the 70296  
installment. 70297

(3) As used in division (G) of this section, "primary 70298  
property location" means an address for tangible personal property 70299  
provided by the lessee or renter that is available to the lessor 70300  
or owner from its records maintained in the ordinary course of 70301  
business, when use of that address does not constitute bad faith. 70302

**Section 3.09B.** That the existing version of section 5739.033 70303  
of the Revised Code as it results from Am. Sub. S.B. 143 of the 70304  
124th General Assembly, as amended by H.B. 675 of the 124th 70305  
General Assembly, is hereby repealed. 70306

**Section 3.09C.** The amendments in Sections 3.09A and 3.09B of 70307  
this act provide for or are essential to the implementation of a 70308  
tax levy. Therefore, under Ohio Constitution, Article II, Section 70309  
1d, those Sections are not subject to the referendum and go into 70310  
effect January 1, 2004. 70311

**Section 3.10.** Section 4723.063 of the Revised Code is hereby 70312  
repealed, effective December 31, 2013. 70313

**Section 3.11.** That the version of section 5101.28 of the 70314  
Revised Code that is scheduled to take effect January 1, 2004, be 70315  
amended to read as follows: 70316

**Sec. 5101.28.** (A) ~~The department of job and family services~~ 70317  
~~shall enter into written agreements with law enforcement agencies~~ 70318  
~~to exchange, obtain, or share~~ (1) On request of the department of 70319  
job and family services or a county agency, a law enforcement 70320  
agency shall provide information regarding public assistance 70321  
recipients to enable the department, ~~or county agencies, and law~~ 70322  
~~enforcement agencies~~ agency to determine, for eligibility 70323

purposes, whether a recipient or a member of a recipient's  
assistance group is ~~either of the following:~~ 70324  
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~~(1) A a fugitive felon;~~ 70326

~~(2) Violating felon or violating~~ a condition of probation, a  
community control sanction, parole, or a post-release control  
sanction imposed under state or federal law. 70327  
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(2) A county agency may enter into a written agreement with a  
local law enforcement agency establishing procedures concerning  
access to information and providing for compliance with division  
(F) of this section. 70330  
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(B) ~~The~~ To the extent permitted by federal law, the  
department and county agencies shall provide information, except  
information directly related to the receipt of medical assistance  
or medical services, regarding recipients of public assistance  
under a program administered by the state department or a county  
agency pursuant to Chapter 5107., 5108., or 5115. of the Revised  
Code to law enforcement agencies on request for the purposes of  
investigations, prosecutions, and criminal and civil proceedings  
that are within the scope of the law enforcement agencies'  
official duties. 70334  
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(C) Information about a recipient shall be exchanged,  
obtained, or shared only if the department, county agency, or law  
enforcement agency requesting the information gives sufficient  
information to specifically identify the recipient. In addition to  
the recipient's name, identifying information may include the  
recipient's current or last known address, social security number,  
other identifying number, age, gender, physical characteristics,  
any information specified in an agreement entered into under  
division (A) of this section, or any information considered  
appropriate by the department or agency. 70344  
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(D)(1) The department and its officers and employees are not 70354

liable in damages in a civil action for any injury, death, or loss 70355  
to person or property that allegedly arises from the release of 70356  
information in accordance with divisions (A), (B), and (C) of this 70357  
section. This section does not affect any immunity or defense that 70358  
the department and its officers and employees may be entitled to 70359  
under another section of the Revised Code or the common law of 70360  
this state, including section 9.86 of the Revised Code. 70361

(2) The county agencies and their employees are not liable in 70362  
damages in a civil action for any injury, death, or loss to person 70363  
or property that allegedly arises from the release of information 70364  
in accordance with divisions (A), (B), and (C) of this section. 70365  
"Employee" has the same meaning as in division (B) of section 70366  
2744.01 of the Revised Code. This section does not affect any 70367  
immunity or defense that the county agencies and their employees 70368  
may be entitled to under another section of the Revised Code or 70369  
the common law of this state, including section 2744.02 and 70370  
division (A)(6) of section 2744.03 of the Revised Code. 70371

(E) To the extent permitted by federal law, the department 70372  
and county agencies shall provide access to information to the 70373  
auditor of state acting pursuant to Chapter 117. or sections 70374  
5101.181 and 5101.182 of the Revised Code and to any other 70375  
government entity authorized by ~~or~~ federal law to conduct an audit 70376  
of or similar activity involving a public assistance program. 70377

(F) The auditor of state shall prepare an annual report on 70378  
the outcome of the agreements required under division (A) of this 70379  
section. The report shall include the number of fugitive felons, 70380  
probation and parole violators, and violators of community control 70381  
sanctions and post-release control sanctions apprehended during 70382  
the immediately preceding year as a result of the exchange of 70383  
information pursuant to that division. The auditor of state shall 70384  
file the report with the governor, the president and minority 70385  
leader of the senate, and the speaker and minority leader of the 70386

house of representatives. The state department, county agencies, 70387  
and law enforcement agencies shall cooperate with the auditor of 70388  
state's office in gathering the information required under this 70389  
division. 70390

(G) To the extent permitted by federal law, the department of 70391  
job and family services, county departments of job and family 70392  
services, and employees of the departments may report to a public 70393  
children services agency or other appropriate agency information 70394  
on known or suspected physical or mental injury, sexual abuse or 70395  
exploitation, or negligent treatment or maltreatment, of a child 70396  
receiving public assistance, if circumstances indicate that the 70397  
child's health or welfare is threatened. 70398

(H) As used in this section: 70399

(1) "Community control sanction" has the same meaning as in 70400  
section 2929.01 of the Revised Code. 70401

(2) "Post-release control sanction" has the same meaning as 70402  
in section 2967.01 of the Revised Code. 70403

**Section 3.12.** That the existing version of section 5101.28 of 70404  
the Revised Code that is scheduled to take effect January 1, 2004, 70405  
is hereby repealed. 70406

**Section 3.13.** Sections 3.11 and 3.12 of this act shall take 70407  
effect January 1, 2004. 70408

**Section 3.14.** That the version of section 5743.45 of the 70409  
Revised Code that is scheduled to take effect January 1, 2004, be 70410  
amended to read as follows: 70411

**Sec. 5743.45.** (A) As used in this section, "felony" has the 70412  
same meaning as in section 109.511 of the Revised Code. 70413

(B) For purposes of enforcing this chapter and Chapters 70414

5728., 5735., 5739., 5741., and 5747. of the Revised Code and 70415  
subject to division (C) of this section, the tax commissioner, by 70416  
journal entry, may delegate any investigation powers of the 70417  
commissioner to an employee of the department of taxation who has 70418  
been certified by the Ohio peace officer training commission and 70419  
who is engaged in the enforcement of those chapters. A separate 70420  
journal entry shall be entered for each employee to whom that 70421  
power is delegated. Each journal entry shall be a matter of public 70422  
record and shall be maintained in an administrative portion of the 70423  
journal as provided for in division (L) of section 5703.05 of the 70424  
Revised Code. When that journal entry is completed, the employee 70425  
to whom it pertains, while engaged within the scope of the 70426  
employee's duties in enforcing the provisions of this chapter or 70427  
Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, 70428  
has the power of a police officer to carry concealed weapons, make 70429  
arrests, and obtain warrants for violations of any provision in 70430  
those chapters. The commissioner, at any time, may suspend or 70431  
revoke the commissioner's delegation by journal entry. No employee 70432  
of the department shall divulge any information acquired as a 70433  
result of an investigation pursuant to this chapter or Chapter 70434  
5728., 5735., 5739., 5741., or 5747. of the Revised Code, except 70435  
as may be required by the commissioner or a court. 70436

(C)(1) The tax commissioner shall not delegate any 70437  
investigation powers to an employee of the department of taxation 70438  
pursuant to division (B) of this section on a permanent basis, on 70439  
a temporary basis, for a probationary term, or on other than a 70440  
permanent basis if the employee previously has been convicted of 70441  
or has pleaded guilty to a felony. 70442

(2)(a) The tax commissioner shall revoke the delegation of 70443  
investigation powers to an employee to whom the delegation was 70444  
made pursuant to division (B) of this section if that employee 70445  
does either of the following: 70446

- (i) Pleads guilty to a felony; 70447
- (ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the employee agrees to surrender the certificate awarded to that employee under section 109.77 of the Revised Code. 70448  
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- (b) The tax commissioner shall suspend the delegation of investigation powers to an employee to whom the delegation was made pursuant to division (B) of this section if that employee is convicted, after trial, of a felony. If the employee files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the employee does not file a timely appeal, the commissioner shall revoke the delegation of investigation powers to that employee. If the employee files an appeal that results in that employee's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that employee, the commissioner shall reinstate the delegation of investigation powers to that employee. The suspension, revocation, and reinstatement of the delegation of investigation powers to an employee under division (C)(2) of this section shall be made by journal entry pursuant to division (B) of this section. An employee to whom the delegation of investigation powers is reinstated under division (C)(2)(b) of this section shall not receive any back pay for the exercise of those investigation powers unless that employee's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the employee of the felony. 70453  
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- (3) Division (C) of this section does not apply regarding an offense that was committed prior to January 1, 1997. 70475  
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- (4) The suspension or revocation of the delegation of 70477



investigation powers to an employee under division (C)(2) of this 70478  
 section shall be in accordance with Chapter 119. of the Revised 70479  
 Code. 70480

**Section 3.15.** That the existing version of section 5743.45 of 70481  
 the Revised Code that is scheduled to take effect January 1, 2004, 70482  
 is hereby repealed. 70483

**Section 3.16.** Sections 3.14 and 3.15 of this act take effect 70484  
 January 1, 2004. 70485

**Section 4.** Except as otherwise provided, all appropriation 70486  
 items (AI) in this act are appropriated out of any moneys in the 70487  
 state treasury to the credit of the designated fund that are not 70488  
 otherwise appropriated. For all appropriations made in this act, 70489  
 the amounts in the first column are for fiscal year 2004 and the 70490  
 amounts in the second column are for fiscal year 2005. 70491

FND AI	AI TITLE	APPROPRIATIONS	70492
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**Section 5. ACC ACCOUNTANCY BOARD OF OHIO** 70493

General Services Fund Group			70494
4J8 889-601	CPA Education	\$ 209,510 \$ 209,510	70495
	Assistance		
4K9 889-609	Operating Expenses	\$ 1,010,583 \$ 1,055,578	70496
TOTAL GSF General Services Fund			70497
Group		\$ 1,220,093 \$ 1,265,088	70498
TOTAL ALL BUDGET FUND GROUPS			70499

**Section 6. PAY ACCRUED LEAVE LIABILITY** 70501

Accrued Leave Liability Fund Group			70502
806 995-666	Accrued Leave Fund	\$ 70,783,792 \$ 78,296,200	70503
807 995-667	Disability Fund	\$ 47,269,465 \$ 50,098,308	70504
TOTAL ALF Accrued Leave Liability			70505

Fund Group	\$	118,053,257	\$	128,394,508	70506
Agency Fund Group					70507
808 995-668 State Employee Health	\$	312,724,593	\$	371,450,611	70508
Benefit Fund					
809 995-669 Dependent Care	\$	3,691,169	\$	4,060,286	70509
Spending Account					
810 995-670 Life Insurance	\$	1,925,110	\$	1,992,489	70510
Investment Fund					
811 995-671 Parental Leave Benefit	\$	4,350,302	\$	4,785,332	70511
Fund					
TOTAL AGY Agency Fund Group	\$	322,691,174	\$	382,288,718	70512
TOTAL ALL BUDGET FUND GROUPS	\$	440,744,431	\$	510,683,226	70513

ACCRUED LEAVE LIABILITY FUND 70514

The foregoing appropriation item 995-666, Accrued Leave Fund, 70515  
shall be used to make payments from the Accrued Leave Liability 70516  
Fund (Fund 806), pursuant to section 125.211 of the Revised Code. 70517  
If it is determined by the Director of Budget and Management that 70518  
additional amounts are necessary, the amounts are appropriated. 70519

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND 70520

The foregoing appropriation item 995-667, Disability Fund, 70521  
shall be used to make payments from the State Employee Disability 70522  
Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the 70523  
Revised Code. If it is determined by the Director of Budget and 70524  
Management that additional amounts are necessary, the amounts are 70525  
appropriated. 70526

STATE EMPLOYEE HEALTH BENEFIT FUND 70527

The foregoing appropriation item 995-668, State Employee 70528  
Health Benefit Fund, shall be used to make payments from the State 70529  
Employee Health Benefit Fund (Fund 808), pursuant to section 70530  
124.87 of the Revised Code. If it is determined by the Director of 70531  
Budget and Management that additional amounts are necessary, the 70532

amounts are appropriated.	70533
DEPENDENT CARE SPENDING ACCOUNT	70534
The foregoing appropriation item 995-669, Dependent Care Spending Account, shall be used to make payments from the Dependent Care Spending Account (Fund 809) to employees eligible for dependent care expenses. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.	70535 70536 70537 70538 70539 70540
LIFE INSURANCE INVESTMENT FUND	70541
The foregoing appropriation item 995-670, Life Insurance Investment Fund, shall be used to make payments from the Life Insurance Investment Fund (Fund 810) for the costs and expenses of the state's life insurance benefit program pursuant to section 125.212 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.	70542 70543 70544 70545 70546 70547 70548
PARENTAL LEAVE BENEFIT FUND	70549
The foregoing appropriation item 995-671, Parental Leave Benefit Fund, shall be used to make payments from the Parental Leave Benefit Fund (Fund 811) to employees eligible for parental leave benefits pursuant to section 124.137 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.	70550 70551 70552 70553 70554 70555
<b>Section 7. ADJ ADJUTANT GENERAL</b>	70556
General Revenue Fund	70557
GRF 745-401 Ohio Military Reserve \$ 14,889 \$ 15,188	70558
GRF 745-404 Air National Guard \$ 1,915,177 \$ 1,939,762	70559
GRF 745-409 Central Administration \$ 3,976,734 \$ 3,899,590	70560
GRF 745-499 Army National Guard \$ 3,987,516 \$ 4,086,222	70561
GRF 745-502 Ohio National Guard \$ 100,953 \$ 102,973	70562

Unit Fund					
TOTAL GRF General Revenue Fund	\$	9,995,269	\$	10,043,735	70563
General Services Fund Group					70564
534 745-612 Armory Improvements	\$	534,304	\$	534,304	70565
536 745-620 Camp Perry/Buckeye Inn	\$	1,094,970	\$	1,094,970	70566
Operations					
537 745-604 ONG Maintenance	\$	219,826	\$	219,826	70567
TOTAL GSF General Services Fund	\$	1,849,100	\$	1,849,100	70568
Group					
Federal Special Revenue Fund Group					70569
3E8 745-628 Air National Guard	\$	11,901,459	\$	12,174,760	70570
Operations and Maintenance Agreement					
3R8 745-603 Counter Drug	\$	25,000	\$	25,000	70571
Operations					
3S0 745-602 Higher Ground Training	\$	10,937	\$	10,937	70572
341 745-615 Air National Guard	\$	2,181,960	\$	2,312,877	70573
Base Security					
342 745-616 Army National Guard	\$	8,109,221	\$	8,686,892	70574
Service Agreement					
TOTAL FED Federal Special Revenue	\$	22,228,577	\$	23,210,466	70575
Fund Group					
State Special Revenue Fund Group					70576
528 745-605 Marksmanship	\$	66,078	\$	66,078	70577
Activities					
TOTAL SSR State Special Revenue	\$	66,078	\$	66,078	70578
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	34,139,024	\$	35,169,379	70579
<b>Section 8. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES</b>					70581
General Revenue Fund					70582
GRF 100-402 Unemployment	\$	155,831	\$	155,189	70583

	Compensation			
GRF 100-405	Agency Audit Expenses	\$	350,000	\$ 350,000 70584
GRF 100-406	County & University	\$	591,007	\$ 568,634 70585
	Human Resources			
	Services			
GRF 100-410	Veterans' Records	\$	19,729	\$ 47,123 70586
	Conversion			
GRF 100-416	Strategic Technology	\$	1,689,155	\$ 1,584,140 70587
	Development Programs			
GRF 100-417	MARCS	\$	1,696,760	\$ 900,000 70588
GRF 100-418	Digital Government	\$	3,446,645	\$ 3,643,649 70589
GRF 100-419	Network Security	\$	3,293,501	\$ 2,170,766 70590
GRF 100-421	OAKS Project	\$	450,000	\$ 450,000 70591
	Implementation			
GRF 100-433	State of Ohio Computer	\$	4,936,073	\$ 4,991,719 70592
	Center			
GRF 100-439	Equal Opportunity	\$	661,531	\$ 661,531 70593
	Certification Programs			
GRF 100-447	OBA - Building Rent	\$	105,675,000	\$ 117,027,700 70594
	Payments			
GRF 100-448	OBA - Building	\$	25,445,550	\$ 26,003,250 70595
	Operating Payments			
GRF 100-449	DAS - Building	\$	4,264,675	\$ 4,460,417 70596
	Operating Payments			
GRF 100-451	Minority Affairs	\$	50,000	\$ 50,000 70597
GRF 100-734	Major Maintenance -	\$	45,000	\$ 45,000 70598
	State Bldgs			
GRF 102-321	Construction	\$	1,250,000	\$ 1,250,000 70599
	Compliance			
GRF 130-321	State Agency Support	\$	2,400,000	\$ 2,400,000 70600
	Services			
TOTAL GRF	General Revenue Fund	\$	157,210,735	\$ 167,547,562 70601
	General Services Fund Group 70602			

112	100-616	Director's Office	\$	5,503,547	\$	5,503,547	70603
115	100-632	Central Service Agency	\$	431,176	\$	448,574	70604
117	100-644	General Services	\$	7,622,861	\$	8,653,304	70605
		Division - Operating					
122	100-637	Fleet Management	\$	1,669,589	\$	1,652,849	70606
125	100-622	Human Resources	\$	21,489,800	\$	21,764,800	70607
		Division - Operating					
127	100-627	Vehicle Liability	\$	3,363,894	\$	3,344,644	70608
		Insurance					
128	100-620	Collective Bargaining	\$	3,410,952	\$	3,410,952	70609
130	100-606	Risk Management	\$	217,904	\$	223,904	70610
		Reserve					
131	100-639	State Architect's	\$	6,510,117	\$	6,473,867	70611
		Office					
132	100-631	DAS Building	\$	10,921,019	\$	10,721,430	70612
		Management					
188	100-649	Equal Opportunity	\$	1,082,353	\$	1,103,697	70613
		Division - Operating					
201	100-653	General Services	\$	1,533,000	\$	1,553,000	70614
		Resale Merchandise					
210	100-612	State Printing	\$	6,160,200	\$	6,674,421	70615
4P3	100-603	Departmental MIS	\$	6,077,535	\$	6,233,638	70616
		Services					
427	100-602	Investment Recovery	\$	4,023,473	\$	3,953,216	70617
5C2	100-605	MARCS Administration	\$	6,632,527	\$	9,268,178	70618
5C3	100-608	Skilled Trades	\$	1,840,327	\$	1,905,655	70619
5D7	100-621	Workforce Development	\$	12,000,000	\$	12,000,000	70620
5L7	100-610	Professional	\$	2,700,000	\$	2,700,000	70621
		Development					
5V6	100-619	Employee Educational	\$	809,071	\$	811,129	70622
		Development					
TOTAL	GSF	General Services Fund					70623
Group			\$	103,999,345	\$	108,400,805	70624

Intragovernmental Service Fund Group				70625
133 100-607 Information Technology	\$ 100,987,526	\$ 102,272,838		70626
Fund				
4N6 100-617 Major IT Purchases	\$ 15,452,006	\$ 10,617,166		70627
TOTAL ISF Intragovernmental				70628
Service Fund Group	\$ 116,439,532	\$ 112,890,004		70629
Agency Fund Group				70630
113 100-628 Unemployment	\$ 4,200,000	\$ 4,200,000		70631
Compensation Pass				
Through				
124 100-629 Payroll Deductions	\$ 1,971,000,000	\$ 2,050,000,000		70632
TOTAL AGY Agency Fund Group	\$ 1,975,200,000	\$ 2,054,200,000		70633
Holding Account Redistribution Fund Group				70634
R08 100-646 General Services	\$ 20,000	\$ 20,000		70635
Refunds				
TOTAL 090 Holding Account				70636
Redistribution Fund Group	\$ 20,000	\$ 20,000		70637
TOTAL ALL BUDGET FUND GROUPS	\$ 2,352,869,612	\$ 2,443,058,371		70638

**Section 8.01.** AGENCY AUDIT EXPENSES 70640

The foregoing appropriation item 100-405, Agency Audit 70641  
Expenses, shall be used for auditing expenses designated in 70642  
division (A)(1) of section 117.13 of the Revised Code for those 70643  
state agencies audited on a biennial basis. 70644

**Section 8.02.** OHIO BUILDING AUTHORITY 70645

The foregoing appropriation item 100-447, OBA - Building Rent 70646  
Payments, shall be used to meet all payments at the times they are 70647  
required to be made during the period from July 1, 2003, to June 70648  
30, 2005, by the Department of Administrative Services to the Ohio 70649  
Building Authority pursuant to leases and agreements under Chapter 70650  
152. of the Revised Code, but limited to the aggregate amount of 70651

\$222,702,700. These appropriations are the source of funds pledged 70652  
for bond service charges on obligations issued pursuant to Chapter 70653  
152. of the Revised Code. 70654

The foregoing appropriation item 100-448, OBA - Building 70655  
Operating Payments, shall be used to meet all payments at the 70656  
times that they are required to be made during the period from 70657  
July 1, 2003, to June 30, 2005, by the Department of 70658  
Administrative Services to the Ohio Building Authority pursuant to 70659  
leases and agreements under Chapter 152. of the Revised Code, but 70660  
limited to the aggregate amount of \$51,448,800. 70661

The payments to the Ohio Building Authority are for the 70662  
purpose of paying the expenses of agencies that occupy space in 70663  
the various state facilities. The Department of Administrative 70664  
Services may enter into leases and agreements with the Ohio 70665  
Building Authority providing for the payment of these expenses. 70666  
The Ohio Building Authority shall report to the Department of 70667  
Administrative Services and the Office of Budget and Management 70668  
not later than five months after the start of a fiscal year the 70669  
actual expenses incurred by the Ohio Building Authority in 70670  
operating the facilities and any balances remaining from payments 70671  
and rentals received in the prior fiscal year. The Department of 70672  
Administrative Services shall reduce subsequent payments by the 70673  
amount of the balance reported to it by the Ohio Building 70674  
Authority. 70675

**Section 8.03. DAS - BUILDING OPERATING PAYMENTS** 70676

The foregoing appropriation item 100-449, DAS - Building 70677  
Operating Payments, shall be used to pay the rent expenses of 70678  
veterans organizations pursuant to section 123.024 of the Revised 70679  
Code in fiscal years 2004 and 2005. 70680

The foregoing appropriation item, 100-449, DAS - Building 70681  
Operating Payments, may be used to provide funding for the cost of 70682



property appraisals or building studies that the Department of 70683  
Administrative Services may be required to obtain for property 70684  
that is being sold by the state or property under consideration to 70685  
be renovated or purchased by the state. 70686

Notwithstanding section 125.28 of the Revised Code, the 70687  
remaining portion of the appropriation may be used to pay the 70688  
operating expenses of state facilities maintained by the 70689  
Department of Administrative Services that are not billed to 70690  
building tenants. These expenses may include, but are not limited 70691  
to, the costs for vacant space and space undergoing renovation, 70692  
and the rent expenses of tenants that are relocated due to 70693  
building renovations. These payments shall be processed by the 70694  
Department of Administrative Services through intrastate transfer 70695  
vouchers and placed in the Building Management Fund (Fund 132). 70696

**Section 8.04. CENTRAL SERVICE AGENCY FUND** 70697

The Director of Budget and Management may transfer up to 70698  
\$423,200 in fiscal year 2004 and up to \$427,700 in fiscal year 70699  
2005 from the Occupational Licensing and Regulatory Fund (Fund 70700  
4K9) to the Central Service Agency Fund (Fund 115). The Director 70701  
of Budget and Management may transfer up to \$40,700 in fiscal year 70702  
2004 and up to \$41,200 in fiscal year 2005 from the State Medical 70703  
Board Operating Fund (Fund 5C6) to the Central Service Agency Fund 70704  
(Fund 115). The appropriation item 100-632, Central Service 70705  
Agency, shall be used to purchase the necessary equipment, 70706  
products, and services to maintain a local area network for the 70707  
professional licensing boards, and to support their licensing 70708  
applications in fiscal years 2004 and 2005. The amount of the cash 70709  
transfer is appropriated to appropriation item 100-632, Central 70710  
Service Agency. 70711

**Section 8.05. COLLECTIVE BARGAINING ARBITRATION EXPENSES** 70712

With approval of the Director of Budget and Management, the Department of Administrative Services may seek reimbursement from state agencies for the actual costs and expenses the department incurs in the collective bargaining arbitration process. The reimbursements shall be processed through intrastate transfer vouchers and placed in the Collective Bargaining Fund (Fund 128).

**Section 8.06. EQUAL OPPORTUNITY PROGRAM**

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the activities supported by the State EEO Fund (Fund 188). These charges shall be deposited to the credit of the State EEO Fund (Fund 188) upon payment made by state agencies, state-supported or state-assisted institutions of higher education, and tax-supported agencies, municipal corporations, and other political subdivisions of the state, for services rendered.

**Section 8.07. MERCHANDISE FOR RESALE**

The foregoing appropriation item 100-653, General Services Resale Merchandise, shall be used to account for merchandise for resale, which is administered by the General Services Division. Deposits to the fund may comprise the cost of merchandise for resale and shipping fees.

**Section 8.08. DEPARTMENTAL MIS**

The foregoing appropriation item 100-603, Departmental MIS Services, may be used to pay operating expenses of management information systems activities in the Department of Administrative Services. The Department of Administrative Services shall establish charges for recovering the costs of management information systems activities. These charges shall be deposited

to the credit of the Departmental MIS Services Fund (Fund 4P3). 70742

Notwithstanding any other language to the contrary, the 70743  
Director of Budget and Management may transfer up to \$1,000,000 of 70744  
fiscal year 2004 appropriations and up to \$1,000,000 of fiscal 70745  
year 2005 appropriations from appropriation item 100-603, 70746  
Departmental MIS Services, to any Department of Administrative 70747  
Services non-General Revenue Fund appropriation item. The 70748  
appropriations transferred shall be used to make payments for 70749  
management information systems services. 70750

**Section 8.09. INVESTMENT RECOVERY FUND** 70751

Notwithstanding division (B) of section 125.14 of the Revised 70752  
Code, cash balances in the Investment Recovery Fund (Fund 427) may 70753  
be used to support the operating expenses of the Federal Surplus 70754  
Operating Program created in sections 125.84 to 125.90 of the 70755  
Revised Code. 70756

Notwithstanding division (B) of section 125.14 of the Revised 70757  
Code, cash balances in the Investment Recovery Fund may be used to 70758  
support the operating expenses of the State Property Inventory and 70759  
Fixed Assets Management System Program. 70760

Of the foregoing appropriation item 100-602, Investment 70761  
Recovery, up to \$1,958,155 in fiscal year 2004 and up to 70762  
\$2,049,162 in fiscal year 2005 shall be used to pay the operating 70763  
expenses of the State Surplus Property Program, the Surplus 70764  
Federal Property Program, and the State Property Inventory and 70765  
Fixed Assets Management System Program pursuant to Chapter 125. of 70766  
the Revised Code and this section. If additional appropriations 70767  
are necessary for the operations of these programs, the Director 70768  
of Administrative Services shall seek increased appropriations 70769  
from the Controlling Board under section 131.35 of the Revised 70770  
Code. 70771

Of the foregoing appropriation item 100-602, Investment 70772  
Recovery, \$2,221,029 in fiscal year 2004 and \$2,130,022 in fiscal 70773  
year 2005 shall be used to transfer proceeds from the sale of 70774  
surplus property from the Investment Recovery Fund to non-General 70775  
Revenue Funds pursuant to division (A)(2) of section 125.14 of the 70776  
Revised Code. If it is determined by the Director of 70777  
Administrative Services that additional appropriations are 70778  
necessary for the transfer of such sale proceeds, the Director of 70779  
Administrative Services may request the Director of Budget and 70780  
Management to increase the amounts. Such amounts are hereby 70781  
appropriated. 70782

Notwithstanding division (B) of section 125.14 of the Revised 70783  
Code, the Director of Budget and Management, at the request of the 70784  
Director of Administrative Services, shall transfer up to 70785  
\$2,811,197 of the amounts held for transfer to the General Revenue 70786  
Fund from the Investment Recovery Fund to the General Services 70787  
Fund (Fund 117) during the biennium beginning July 1, 2003, and 70788  
ending June 30, 2005. The cash transferred to the General Services 70789  
Fund shall be used to pay the operating expenses of the 70790  
Competitive Sealed Proposal Program, to provide operating cash for 70791  
the General Services Fund, and to provide operating cash for the 70792  
newly created rate pools for Real Estate Leasing and Interior 70793  
Design Services. 70794

**Section 8.10. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM** 70795

Notwithstanding division (B)(3) of section 4505.09 of the 70796  
Revised Code, the Director of Budget and Management, at the 70797  
request of the Director of Administrative Services, may transfer 70798  
up to \$4,887,390 in fiscal year 2004 and \$1,000,000 in fiscal year 70799  
2005 from the Automated Title Processing System (Fund 849) to the 70800  
Multi-Agency Radio Communications Systems Administration Fund 70801  
(Fund 5C2). The cash transferred to the Multi-Agency Radio 70802

Communications Systems Administration Fund shall be used for the 70803  
development of the MARCS system. 70804

Effective with the implementation of the Multi-Agency Radio 70805  
Communications System, the Director of Administrative Services 70806  
shall collect user fees from participants in the system. The 70807  
Director of Administrative Services, with the advice of the 70808  
Multi-Agency Radio Communications System Steering Committee and 70809  
the Director of Budget and Management, shall determine the amount 70810  
of the fees and the manner by which the fees shall be collected. 70811  
Such user charges shall comply with the applicable cost principles 70812  
issued by the federal Office of Management and Budget. All moneys 70813  
from user charges and fees shall be deposited in the state 70814  
treasury to the credit of the Multi-Agency Radio Communications 70815  
System Administration Fund (Fund 5C2). All interest income derived 70816  
from the investment of the fund shall accrue to the fund. 70817

**Section 8.11. WORKFORCE DEVELOPMENT FUND** 70818

There is hereby established in the state treasury the 70819  
Workforce Development Fund (Fund 5D7). The foregoing appropriation 70820  
item 100-621, Workforce Development, shall be used to make 70821  
payments from the fund. The fund shall be under the supervision of 70822  
the Department of Administrative Services, which may adopt rules 70823  
with regard to administration of the fund. The fund shall be used 70824  
to pay the costs of the Workforce Development Program, if any, as 70825  
previously established by Article 37 of the contract between the 70826  
State of Ohio and OCSEA/AFSCME, Local 11, effective March 1, 2000, 70827  
and as modified by any successor labor contract between the State 70828  
of Ohio and OCSEA/AFSCME. The program shall be administered in 70829  
accordance with the contract. Revenues shall accrue to the fund as 70830  
specified in the contract. The fund may be used to pay direct and 70831  
indirect costs of the program that are attributable to staff, 70832  
consultants, and service providers. All income derived from the 70833

investment of the fund shall accrue to the fund. 70834

If it is determined by the Director of Administrative 70835  
Services that additional appropriation amounts are necessary, the 70836  
Director of Administrative Services may request that the Director 70837  
of Budget and Management increase such amounts. Such amounts are 70838  
hereby appropriated. 70839

**Section 8.12. PROFESSIONAL DEVELOPMENT FUND 70840**

The foregoing appropriation item 100-610, Professional 70841  
Development, shall be used to make payments from the Professional 70842  
Development Fund (Fund 5L7) pursuant to section 124.182 of the 70843  
Revised Code. 70844

**Section 8.13. EMPLOYEE EDUCATIONAL DEVELOPMENT 70845**

There is hereby established in the state treasury the 70846  
Employee Educational Development Fund (Fund 5V6). The foregoing 70847  
appropriation item 100-619, Employee Educational Development, 70848  
shall be used to make payments from the fund. The fund shall be 70849  
used to pay the costs of the administration of educational 70850  
programs per existing collective bargaining agreements with 70851  
District 1199, the Health Care and Social Service Union; State 70852  
Council of Professional Educators; Ohio Education Association; 70853  
National Education Association; the Fraternal Order of Police Ohio 70854  
Labor Council, Unit 2; and the Ohio State Troopers Association, 70855  
Units 1 and 15. The fund shall be under the supervision of the 70856  
Department of Administrative Services, which may adopt rules with 70857  
regard to administration of the fund. The fund shall be 70858  
administered in accordance with the applicable sections of the 70859  
collective bargaining agreements between the State and the 70860  
aforementioned unions. The Department of Administrative Services, 70861  
with the approval of the Director of Budget and Management, shall 70862  
establish charges for recovering the costs of administering the 70863

educational programs. Receipts for these charges shall be 70864  
deposited into the Employee Educational Development Fund. All 70865  
income derived from the investment of the funds shall accrue to 70866  
the fund. 70867

If it is determined by the Director of Administrative 70868  
Services that additional appropriation amounts are necessary, the 70869  
Director of Administrative Services may request that the Director 70870  
of Budget and Management increase such amounts. Such amounts are 70871  
hereby appropriated with the approval of the Director of Budget 70872  
and Management. 70873

Upon the request of the Director of Administrative Services, 70874  
the Director of Budget and Management shall transfer any cash 70875  
balances attributable to educational programs per existing 70876  
collective bargaining agreements with District 1199, the Health 70877  
Care and Social Service Union; State Council of Professional 70878  
Educators; Ohio Education Association; National Education 70879  
Association; the Fraternal Order of Police Ohio Labor Council, 70880  
Unit 2; and the Ohio State Troopers Association, Units 1 and 15 70881  
from the Human Resources Services Fund (Fund 125) to the Employee 70882  
Educational Development Fund (Fund 5V6). 70883

**Section 8.14. MAJOR IT PURCHASES** 70884

The Director of Administrative Services shall compute the 70885  
amount of revenue attributable to the amortization of all 70886  
equipment purchases and capitalized systems from appropriation 70887  
item 100-607, Information Technology Fund; appropriation item 70888  
100-617, Major IT Purchases; and appropriation item CAP-837, Major 70889  
IT Purchases, which is recovered by the Department of 70890  
Administrative Services as part of the rates charged by the 70891  
Information Technology Fund (Fund 133) created in section 125.15 70892  
of the Revised Code. The Director of Budget and Management may 70893  
transfer cash in an amount not to exceed the amount of 70894

amortization computed from the Information Technology Fund (Fund 133) to the Major IT Purchases Fund (Fund 4N6). 70895  
70896

**Section 8.15. INFORMATION TECHNOLOGY ASSESSMENT** 70897

The Director of Administrative Services, with the approval of 70898  
the Director of Budget and Management, may establish an 70899  
information technology assessment for the purpose of recovering 70900  
the cost of selected infrastructure and statewide programs. Such 70901  
assessment shall comply with applicable cost principles issued by 70902  
the federal Office of Management and Budget. The information 70903  
technology assessment shall be charged to all organized bodies, 70904  
offices, or agencies established by the laws of the state for the 70905  
exercise of any function of state government except for the 70906  
General Assembly, any legislative agency, the Supreme Court, the 70907  
other courts of record in Ohio, or any judicial agency, the 70908  
Adjutant General, the Bureau of Workers' Compensation, and 70909  
institutions administered by a board of trustees. Any state-entity 70910  
exempted by this section may utilize the infrastructure or 70911  
statewide program by participating in the information technology 70912  
assessment. All charges for the information technology assessment 70913  
shall be deposited to the credit of the Information Technology 70914  
Fund (Fund 133) created in section 125.15 of the Revised Code. 70915

**Section 8.16. UNEMPLOYMENT COMPENSATION FUND** 70916

The foregoing appropriation item 100-628, Unemployment 70917  
Compensation Pass Through, shall be used to make payments from the 70918  
Unemployment Compensation Fund (Fund 113), pursuant to section 70919  
4141.241 of the Revised Code. If it is determined that additional 70920  
amounts are necessary, such amounts are hereby appropriated. 70921

**Section 8.17. PAYROLL WITHHOLDING FUND** 70922

The foregoing appropriation item 100-629, Payroll Deductions, 70923



shall be used to make payments from the Payroll Withholding Fund 70924  
(Fund 124). If it is determined by the Director of Budget and 70925  
Management that additional appropriation amounts are necessary, 70926  
such amounts are hereby appropriated. 70927

**Section 8.18. GENERAL SERVICES REFUNDS** 70928

The foregoing appropriation item 100-646, General Services 70929  
Refunds, shall be used to hold bid guarantee and building plans 70930  
and specifications deposits until they are refunded. The Director 70931  
of Administrative Services may request that the Director of Budget 70932  
and Management transfer cash received for the costs of providing 70933  
the building plans and specifications to contractors from the 70934  
General Services Refunds Fund to the State Architect's Office Fund 70935  
(Fund 131). Prior to the transfer of cash, the Director of 70936  
Administrative Services shall certify that such amounts are in 70937  
excess of amounts required for refunding deposits and are directly 70938  
related to costs of producing building plans and specifications. 70939  
If it is determined that additional appropriations are necessary, 70940  
such amounts are hereby appropriated. 70941

**Section 8.19. MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT** 70942  
**SERVICE PAYMENTS** 70943

The Director of Administrative Services, in consultation with 70944  
the Multi-Agency Radio Communication System (MARCS) Steering 70945  
Committee and the Director of Budget and Management, shall 70946  
determine the share of debt service payments attributable to 70947  
spending for MARCS components that are not specific to any one 70948  
agency and that shall be charged to agencies supported by the 70949  
motor fuel tax. Such share of debt service payments shall be 70950  
calculated for MARCS capital disbursements made beginning July 1, 70951  
1997. Within thirty days of any payment made from appropriation 70952  
item 100-447, OBA - Building Rent Payments, the Director of 70953

Administrative Services shall certify to the Director of Budget and Management the amount of this share. The Director of Budget and Management shall transfer such amounts to the General Revenue Fund from the State Highway Safety Fund (Fund 036) established in section 4501.06 of the Revised Code.

The Director of Administrative Services shall consider renting or leasing existing tower sites at reasonable or current market rates, so long as these existing sites are equipped with the technical capabilities to support the MARCS project.

**Section 8.20. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY**

Whenever the Director of Administrative Services declares a "public exigency," as provided in division (C) of section 123.15 of the Revised Code, the Director shall also notify the members of the Controlling Board.

**Section 8.21. GENERAL SERVICE CHARGES**

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the programs in the General Services Fund (Fund 117) and the State Printing Fund (Fund 210).

**Section 9. AAM COMMISSION ON AFRICAN AMERICAN MALES**

General Revenue Fund					70975
GRF 036-100 Personal Services	\$	212,492	\$	218,610	70976
GRF 036-200 Maintenance	\$	50,180	\$	50,180	70977
GRF 036-300 Equipment	\$	4,000	\$	4,000	70978
GRF 036-501 CAAM Awards and Scholarships	\$	8,143	\$	765	70979
GRF 036-502 Community Projects	\$	25,185	\$	26,445	70980
TOTAL GRF General Revenue Fund	\$	300,000	\$	300,000	70981

State Special Revenue Fund Group				70982
4H3 036-601 Commission on African American Males - Gifts/Grants	\$	10,000	\$ 10,000	70983
TOTAL SSR State Special Revenue Fund Group	\$	10,000	\$ 10,000	70984
TOTAL ALL BUDGET FUND GROUPS	\$	310,000	\$ 310,000	70985
COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW				70986
Annually, not later than the thirty-first day of December,				70987
the Commission on African American Males shall internally prepare				70988
and submit to the chairperson and ranking minority member of the				70989
Human Services Subcommittee of the Finance and Appropriations				70990
Committee of the House of Representatives a report that				70991
demonstrates the progress that has been made toward meeting the				70992
Commission's mission statement.				70993
<b>Section 10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW</b>				70994
General Revenue Fund				70995
GRF 029-321 Operating Expenses	\$	363,769	\$ 379,769	70996
TOTAL GRF General Revenue Fund	\$	363,769	\$ 379,769	70997
TOTAL ALL BUDGET FUND GROUPS	\$	363,769	\$ 379,769	70998
OPERATING				70999
The Chief Administrative Officer of the House of				71000
Representatives and the Clerk of the Senate shall determine, by				71001
mutual agreement, which of them shall act as fiscal agent for the				71002
Joint Committee on Agency Rule Review.				71003
<b>Section 11. AGE DEPARTMENT OF AGING</b>				71004
General Revenue Fund				71005
GRF 490-321 Operating Expenses	\$	2,308,867	\$ 2,308,867	71006
GRF 490-403 PASSPORT	\$	74,808,877	\$ 80,946,032	71007

GRF 490-405	Golden Buckeye Card	\$	297,628	\$	297,628	71008
GRF 490-406	Senior Olympics	\$	16,636	\$	16,636	71009
GRF 490-409	Ohio Community Service	\$	228,048	\$	228,048	71010
	Council Operations					
GRF 490-410	Long-Term Care	\$	729,685	\$	729,685	71011
	Ombudsman					
GRF 490-411	Senior Community	\$	11,271,431	\$	11,271,431	71012
	Services					
GRF 490-412	Residential State	\$	9,960,356	\$	10,210,356	71013
	Supplement					
GRF 490-414	Alzheimers Respite	\$	4,346,689	\$	4,346,689	71014
GRF 490-416	Transportation for	\$	138,369	\$	138,369	71015
	Elderly					
GRF 490-419	Prescription Drug	\$	169,986	\$	169,986	71016
	Discount Program					
GRF 490-506	Senior Volunteers	\$	375,471	\$	375,471	71017
TOTAL GRF	General Revenue Fund	\$	104,652,043	\$	111,039,198	71018
	General Services Fund Group					71019
480 490-606	Senior Citizens	\$	372,677	\$	372,677	71020
	Services Special					
	Events					
5T4 490-615	Aging Network Support	\$	252,830	\$	252,830	71021
TOTAL GSF	General Services Fund					71022
Group		\$	625,507	\$	625,507	71023
	Federal Special Revenue Fund Group					71024
3C4 490-607	PASSPORT	\$	140,563,071	\$	143,208,159	71025
3M3 490-611	Federal Aging	\$	25,541,095	\$	26,818,149	71026
	Nutrition					
3M4 490-612	Federal Supportive	\$	26,305,294	\$	27,094,453	71027
	Services					
3R7 490-617	Ohio Community Service	\$	8,951,150	\$	8,905,150	71028
	Council Programs					

322	490-618	Older Americans	\$	12,904,949	\$	13,298,626	71029
		Support Services					
	TOTAL FED	Federal Special Revenue					71030
	Fund Group		\$	214,265,559	\$	219,324,537	71031
	State Special Revenue	Fund Group					71032
4C4	490-609	Regional Long-Term	\$	829,321	\$	829,321	71033
		Care Ombudsman Program					
4J4	490-610	PASSPORT/Residential	\$	33,268,052	\$	33,263,984	71034
		State Supplement					
4U9	490-602	PASSPORT Fund	\$	5,000,000	\$	5,000,000	71035
5W1	490-616	Resident Services	\$	250,000	\$	250,000	71036
		Coordinator Program					
624	490-604	OCSC Community Support	\$	2,500	\$	2,500	71037
	TOTAL SSR	State Special Revenue					71038
	Fund Group		\$	39,349,873	\$	39,345,805	71039
	TOTAL ALL BUDGET	FUND GROUPS	\$	358,892,982	\$	370,335,047	71040

**Section 11.01. PRE-ADMISSION REVIEW FOR NURSING FACILITY** 71042

**ADMISSION** 71043

Pursuant to sections 5101.751 and 5101.754 of the Revised 71044  
Code and an interagency agreement, the Department of Job and 71045  
Family Services shall designate the Department of Aging to perform 71046  
assessments under sections 5101.75 and 5111.204 of the Revised 71047  
Code. Of the foregoing appropriation item 490-403, PASSPORT, the 71048  
Department of Aging may use not more than \$2,511,309 in fiscal 71049  
year 2004 and \$2,574,092 in fiscal year 2005 to perform the 71050  
assessments for persons not eligible for Medicaid in accordance 71051  
with the department's interagency agreement with the Department of 71052  
Job and Family Services and to assist individuals in planning for 71053  
their long-term health care needs. 71054

**Section 11.02. PASSPORT** 71055

Appropriation item 490-403, PASSPORT, and the amounts set 71056  
aside for the PASSPORT Waiver Program in appropriation item 71057  
490-610, PASSPORT/Residential State Supplement, may be used to 71058  
assess clients regardless of Medicaid eligibility. 71059

The Director of Aging shall adopt rules under section 111.15 71060  
of the Revised Code governing the nonwaiver funded PASSPORT 71061  
program, including client eligibility. 71062

The Department of Aging shall administer the Medicaid 71063  
waiver-funded PASSPORT Home Care Program as delegated by the 71064  
Department of Job and Family Services in an interagency agreement. 71065  
The foregoing appropriation item 490-403, PASSPORT, and the 71066  
amounts set aside for the PASSPORT Waiver Program in appropriation 71067  
item 490-610, PASSPORT/Residential State Supplement, shall be used 71068  
to provide the required state match for federal Medicaid funds 71069  
supporting the Medicaid Waiver-funded PASSPORT Home Care Program. 71070  
Appropriation item 490-403, PASSPORT, and the amounts set aside 71071  
for the PASSPORT Waiver Program in appropriation item 490-610, 71072  
PASSPORT/Residential State Supplement, may also be used to support 71073  
the Department of Aging's administrative costs associated with 71074  
operating the PASSPORT program. 71075

The foregoing appropriation item 490-607, PASSPORT, shall be 71076  
used to provide the federal matching share for all PASSPORT 71077  
program costs determined by the Department of Job and Family 71078  
Services to be eligible for Medicaid reimbursement. 71079

**SENIOR COMMUNITY SERVICES** 71080

Of the foregoing appropriation item 490-411, Senior Community 71081  
Services, \$300,000 shall be allocated to the Visiting Nurses 71082  
Association of Cleveland. 71083

The remainder of the foregoing appropriation item 490-411, 71084  
Senior Community Services, shall be used for services designated 71085  
by the Department of Aging, including, but not limited to, 71086

home-delivered and congregate meals, transportation services, 71087  
personal care services, respite services, adult day services, home 71088  
repair, care coordination, and decision support systems. Service 71089  
priority shall be given to low income, frail, and cognitively 71090  
impaired persons 60 years of age and over. The department shall 71091  
promote cost sharing by service recipients for those services 71092  
funded with block grant funds, including, where possible, 71093  
sliding-fee scale payment systems based on the income of service 71094  
recipients. 71095

ALZHEIMERS RESPITE 71096

The foregoing appropriation item 490-414, Alzheimers Respite, 71097  
shall be used to fund only Alzheimer's disease services under 71098  
section 173.04 of the Revised Code. 71099

TRANSPORTATION FOR ELDERLY 71100

The foregoing appropriation item 490-416, Transportation for 71101  
Elderly, shall be used for noncapital expenses related to 71102  
transportation services for the elderly that provide access to 71103  
such things as healthcare services, congregate meals, 71104  
socialization programs, and grocery shopping. The funds pass 71105  
through and shall be administered by the Area Agencies on Aging. 71106  
The appropriation shall be allocated to the following agencies: 71107

(A) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in 71108  
fiscal year 2005 to the Jewish Vocational Services/Cincinnati; 71109

(B) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in 71110  
fiscal year 2005 to the Jewish Community Center of Cleveland; 71111

(C) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in 71112  
fiscal year 2005 to the Wexner Heritage Village/Columbus; 71113

(D) Up to \$15,469 in fiscal year 2004 and up to \$15,082 in 71114  
fiscal year 2005 to the Jewish Family Services of Dayton; 71115

(E) Up to \$7,805 in fiscal year 2004 and up to \$7,610 in 71116

fiscal year 2005 to the Jewish Community Center of Akron;	71117
(F) Up to \$3,832 in fiscal year 2004 and up to \$3,736 in	71118
fiscal year 2005 to the Jewish Community Center/Youngstown;	71119
(G) Up to \$2,270 in fiscal year 2004 and up to \$2,214 in	71120
fiscal year 2005 to the Jewish Community Center/Canton;	71121
(H) Up to \$7,805 in fiscal year 2004 and up to \$7,610 in	71122
fiscal year 2005 to the Jewish Community Center/Sylvania.	71123
Agencies receiving funding from appropriation item 490-416,	71124
Transportation for Elderly, shall coordinate services with other	71125
local service agencies.	71126
RESIDENTIAL STATE SUPPLEMENT	71127
Under the Residential State Supplement Program, the amount	71128
used to determine whether a resident is eligible for payment and	71129
for determining the amount per month the eligible resident will	71130
receive shall be as follows:	71131
(A) \$900 for a residential care facility, as defined in	71132
section 3721.01 of the Revised Code;	71133
(B) \$900 for an adult group home, as defined in Chapter 3722.	71134
of the Revised Code;	71135
(C) \$800 for an adult foster home, as defined in Chapter 173.	71136
of the Revised Code;	71137
(D) \$800 for an adult family home, as defined in Chapter	71138
3722. of the Revised Code;	71139
(E) \$800 for an adult community alternative home, as defined	71140
in Chapter 3724. of the Revised Code;	71141
(F) \$800 for an adult residential facility, as defined in	71142
Chapter 5119. of the Revised Code;	71143
(G) \$600 for adult community mental health housing services,	71144
as defined in division (B)(5) of section 173.35 of the Revised	71145



Code.	71146
The Departments of Aging and Job and Family Services shall	71147
reflect these amounts in any applicable rules the departments	71148
adopt under section 173.35 of the Revised Code.	71149
TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS	71150
The Department of Aging may transfer cash by intrastate	71151
transfer vouchers from the foregoing appropriation items 490-412,	71152
Residential State Supplement, and 490-610, PASSPORT/Residential	71153
State Supplement, to the Department of Job and Family Services'	71154
Fund 4J5, Home and Community-Based Services for the Aged Fund. The	71155
funds shall be used to make benefit payments to Residential State	71156
Supplement recipients.	71157
LONG-TERM CARE OMBUDSMAN	71158
The foregoing appropriation item 490-410, Long-Term Care	71159
Ombudsman, shall be used for a program to fund ombudsman program	71160
activities in nursing homes, adult care facilities, boarding	71161
homes, and home and community care services.	71162
PRESCRIPTION DRUG DISCOUNT PROGRAM	71163
The foregoing appropriation item 490-419, Prescription Drug	71164
Discount Program, shall be used to administer a prescription drug	71165
discount program.	71166
REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAMS	71167
The foregoing appropriation item 490-609, Regional Long-Term	71168
Care Ombudsman Programs, shall be used solely to pay the costs of	71169
operating the regional long-term care ombudsman programs.	71170
PASSPORT/RESIDENTIAL STATE SUPPLEMENT	71171
Of the foregoing appropriation item 490-610,	71172
PASSPORT/Residential State Supplement, up to \$2,835,000 each	71173
fiscal year may be used to fund the Residential State Supplement	71174
Program. The remaining available funds shall be used to fund the	71175

PASSPORT program.				71176	
TRANSFER OF APPROPRIATIONS - FEDERAL AGING NUTRITION, FEDERAL SUPPORTIVE SERVICES, AND OLDER AMERICANS SUPPORT SERVICES				71177 71178	
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.				71179 71180 71181 71182 71183 71184 71185 71186	
OHIO COMMUNITY SERVICE COUNCIL				71187	
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.				71188 71189 71190 71191	
<b>Section 12. AGR DEPARTMENT OF AGRICULTURE</b>				71192	
General Revenue Fund				71193	
GRF 700-321 Operating Expenses	\$	2,737,665	\$	2,771,628	71194
GRF 700-401 Animal Disease Control	\$	3,621,815	\$	3,621,815	71195
GRF 700-402 Amusement Ride Safety	\$	278,767	\$	275,943	71196
GRF 700-403 Dairy Division	\$	1,494,597	\$	1,494,153	71197
GRF 700-404 Ohio Proud	\$	197,727	\$	197,229	71198
GRF 700-405 Animal Damage Control	\$	94,954	\$	94,954	71199
GRF 700-406 Consumer Analytical	\$	1,319,281	\$	1,372,241	71200
Lab					
GRF 700-407 Food Safety	\$	999,042	\$	999,042	71201
GRF 700-409 Farmland Preservation	\$	256,993	\$	256,993	71202
GRF 700-410 Plant Industry	\$	1,109,867	\$	1,107,677	71203
GRF 700-411 International Trade	\$	621,049	\$	517,524	71204

		and Market Development				
GRF	700-412	Weights and Measures	\$	914,137	\$	909,120 71205
GRF	700-413	Gypsy Moth Prevention	\$	546,118	\$	576,299 71206
GRF	700-414	Concentrated Animal	\$	16,521	\$	16,086 71207
		Feeding Facilities				
		Advisory Committee				
GRF	700-415	Poultry Inspection	\$	270,645	\$	267,743 71208
GRF	700-418	Livestock Regulation	\$	1,306,911	\$	1,306,911 71209
		Program				
GRF	700-424	Livestock Testing and	\$	123,347	\$	123,347 71210
		Inspections				
GRF	700-499	Meat Inspection	\$	4,651,611	\$	4,696,889 71211
		Program - State Share				
GRF	700-501	County Agricultural	\$	381,091	\$	381,091 71212
		Societies				
TOTAL GRF		General Revenue Fund	\$	20,942,138	\$	20,986,685 71213
		Federal Special Revenue Fund Group				71214
3J4	700-607	Indirect Cost	\$	938,785	\$	949,877 71215
3R2	700-614	Federal Plant Industry	\$	1,400,000	\$	1,425,000 71216
326	700-618	Meat Inspection	\$	4,876,904	\$	4,951,291 71217
		Service - Federal				
		Share				
336	700-617	Ohio Farm Loan	\$	181,774	\$	181,774 71218
		Revolving Fund				
382	700-601	Cooperative Contracts	\$	2,400,000	\$	2,500,000 71219
TOTAL FED		Federal Special Revenue				71220
Fund Group			\$	9,797,463	\$	10,007,942 71221
		State Special Revenue Fund Group				71222
4C9	700-605	Feed, Fertilizer, and	\$	986,765	\$	1,008,541 71223
		Lime Inspection				
4D2	700-609	Auction Education	\$	30,476	\$	30,476 71224
4E4	700-606	Utility Radiological	\$	73,059	\$	73,059 71225

		Safety					
4P7	700-610	Food Safety Inspection	\$	575,797	\$	582,711	71226
4R0	700-636	Ohio Proud Marketing	\$	40,300	\$	38,300	71227
4R2	700-637	Dairy Inspection Fund	\$	1,157,603	\$	1,184,183	71228
4T6	700-611	Poultry and Meat	\$	46,162	\$	47,294	71229
		Inspection					
4T7	700-613	International Trade	\$	41,238	\$	42,000	71230
		and Market Development					
		Rotary					
4V5	700-615	Animal Industry Lab	\$	711,944	\$	711,944	71231
		Fees					
494	700-612	Agricultural Commodity	\$	170,077	\$	170,220	71232
		Marketing Program					
496	700-626	Ohio Grape Industries	\$	1,071,099	\$	1,071,099	71233
497	700-627	Commodity Handlers	\$	664,118	\$	664,118	71234
		Regulatory Program					
498	700-628	Commodity Indemnity	\$	250,000	\$	250,000	71235
		Fund					
5B8	700-629	Auctioneers	\$	291,672	\$	365,390	71236
5H2	700-608	Metrology Lab	\$	105,879	\$	108,849	71237
5L8	700-604	Livestock Management	\$	250,000	\$	250,000	71238
		Program					
578	700-620	Ride Inspection Fees	\$	497,000	\$	497,000	71239
579	700-630	Scale Certification	\$	168,785	\$	171,677	71240
652	700-634	Laboratory Services	\$	1,043,444	\$	1,074,447	71241
669	700-635	Pesticide Program	\$	2,243,232	\$	2,243,232	71242
TOTAL SSR		State Special Revenue					71243
Fund Group			\$	10,418,650	\$	10,584,540	71244
		Clean Ohio Fund Group					71245
057	700-632	Clean Ohio	\$	149,000	\$	149,000	71246
		Agricultural Easement					
TOTAL CLR		Clean Ohio Fund Group	\$	149,000	\$	149,000	71247

Holding Account Redistribution Fund Group				71248
XXX 700-XXX Farm Service	\$	60,000	\$ 60,000	71249
Electronic Filing				
TOTAL 090 Holding Account	\$	60,000	\$ 60,000	71250
Redistribution Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	41,367,251	\$ 41,788,167	71251
ANIMAL DAMAGE CONTROL				71252
Of the foregoing appropriation item 700-405, Animal Damage				71253
Control, \$50,000 shall be used in each fiscal year for coyote and				71254
black vulture indemnification.				71255
INTERNATIONAL TRADE AND MARKET DEVELOPMENT				71256
Of the foregoing appropriation item 700-411, International				71257
Trade and Market Development, \$100,000 shall be used in fiscal				71258
year 2004 for the Ohio-Israel Agricultural Initiative.				71259
FAMILY FARM LOAN PROGRAM				71260
Notwithstanding Chapter 166. of the Revised Code, up to				71261
\$1,500,000 in each fiscal year shall be transferred from moneys in				71262
the Facilities Establishment Fund (Fund 037) to the Family Farm				71263
Loan Fund (Fund 5H1) in the Department of Development. These				71264
moneys shall be used for loan guarantees. The transfer is subject				71265
to Controlling Board approval.				71266
Financial assistance from the Family Farm Loan Fund (Fund				71267
5H1) shall be repaid to Fund 5H1. This fund is established in				71268
accordance with sections 166.031, 901.80, 901.81, 901.82, and				71269
901.83 of the Revised Code.				71270
When the Family Farm Loan Fund (Fund 5H1) ceases to exist,				71271
all outstanding balances, all loan repayments, and any other				71272
outstanding obligations shall revert to the Facilities				71273
Establishment Fund (Fund 037).				71274
CLEAN OHIO AGRICULTURAL EASEMENT				71275

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.

**FARM SERVICE ELECTRONIC FILING**

As soon as possible on or after July 1, 2003, the Director of Budget and Management shall make a one-time cash transfer of \$60,000 from Fund 382, Cooperative Contracts, to Fund XXX, Farm Service Electronic Filing Fund, in fiscal year 2004. The Farm Service Electronic Filing Fund shall be administered by the Department of Agriculture.

**Section 13. AIR AIR QUALITY DEVELOPMENT AUTHORITY**

Agency Fund Group					71288
4Z9 898-602 Small Business	\$	233,482	\$	233,482	71289
Ombudsman					
5A0 898-603 Small Business	\$	197,463	\$	197,463	71290
Assistance					
570 898-601 Operating Expenses	\$	243,383	\$	243,383	71291
TOTAL AGY Agency Fund Group	\$	674,328	\$	674,328	71292
TOTAL ALL BUDGET FUND GROUPS	\$	674,328	\$	674,328	71293

**Section 14. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION**

SERVICES					71295
General Revenue Fund					71297
GRF 038-321 Operating Expenses	\$	1,200,293	\$	1,200,293	71298
GRF 038-401 Treatment Services	\$	36,012,306	\$	36,012,306	71299
GRF 038-404 Prevention Services	\$	1,055,033	\$	1,055,033	71300
TOTAL GRF General Revenue Fund	\$	38,267,632	\$	38,267,632	71301
General Services Fund					71302
5T9 038-616 Problem Gambling	\$	60,000	\$	60,000	71303

Services			
TOTAL GSF General Services Fund	\$	60,000	\$ 60,000 71304
Group			
Federal Special Revenue Fund Group			71305
3G3 038-603 Drug Free Schools	\$	3,500,000	\$ 3,500,000 71306
3G4 038-614 Substance Abuse Block	\$	67,335,499	\$ 68,079,223 71307
Grant			
3H8 038-609 Demonstration Grants	\$	7,093,075	\$ 7,093,075 71308
3J8 038-610 Medicaid	\$	30,000,000	\$ 30,000,000 71309
3N8 038-611 Administrative	\$	500,000	\$ 500,000 71310
Reimbursement			
TOTAL FED Federal Special Revenue			71311
Fund Group	\$	108,428,574	\$ 109,172,298 71312
State Special Revenue Fund Group			71313
475 038-621 Statewide Treatment	\$	15,191,182	\$ 15,191,182 71314
and Prevention			
5P1 038-615 Credentialing	\$	225,000	\$ 0 71315
689 038-604 Education and	\$	280,000	\$ 280,000 71316
Conferences			
TOTAL SSR State Special Revenue			71317
Fund Group	\$	15,696,182	\$ 15,471,182 71318
TOTAL ALL BUDGET FUND GROUPS	\$	162,452,388	\$ 162,971,112 71319
AM. SUB. H.B. 484 OF THE 122nd GENERAL ASSEMBLY			71320
Of the foregoing appropriation item 038-401, Treatment			71321
Services, \$4 million in each fiscal year shall be allocated for			71322
services to families, adults, and adolescents pursuant to the			71323
requirements of Am. Sub. H.B. 484 of the 122nd General Assembly.			71324
TALBERT HOUSE			71325
Of the foregoing appropriation item 038-401, Treatment			71326
Services, \$200,000 in each fiscal year shall be allocated to			71327
establish a Talbert House Facility in Butler County. These funds			71328

are in addition to any other funds for which the Talbert House 71329  
facility in Butler County is eligible to receive from the 71330  
Department of Alcohol and Drug Addiction Services. 71331

SERVICES FOR TANF-ELIGIBLE INDIVIDUALS 71332

Of the foregoing appropriation item 038-401, Treatment 71333  
Services, \$5 million each year shall be used to fund TANF-eligible 71334  
expenditures for substance abuse prevention and treatment services 71335  
to children, or their families, whose income is at or below 200 71336  
per cent of the official income poverty guideline. The Director of 71337  
Alcohol and Drug Addiction Services and the Director of Job and 71338  
Family Services shall develop operating and reporting guidelines 71339  
for these programs. 71340

PARENT AWARENESS TASK FORCE 71341

The Parent Awareness Task Force shall study ways to engage 71342  
more parents in activities, coalitions, and educational programs 71343  
in Ohio relating to alcohol and other drug abuse prevention. Of 71344  
the foregoing appropriation item 038-404, Prevention Services, 71345  
\$30,000 in each fiscal year may be used to support the functions 71346  
of the Parent Awareness Task Force. 71347

COMMUNITY CAPITAL ASSISTANCE FUNDS 71348

Any proceeds from the repayment of ODADAS community capital 71349  
assistance funds from St. Anthony's Villa shall be deposited into 71350  
Fund 475, appropriation item 038-621, Statewide Treatment and 71351  
Prevention, and such amounts are hereby appropriated for 71352  
distribution to other community capital assistance projects in 71353  
Lucas County. 71354

**Section 15. AMB AMBULANCE LICENSING BOARD** 71355

General Services Fund Group 71356  
4N1 915-601 Operating Expenses \$ 272,340 \$ 284,054 71357  
TOTAL GSF General Services 71358



Fund Group	\$	272,340	\$	284,054	71359
TOTAL ALL BUDGET FUND GROUPS	\$	272,340	\$	284,054	71360

**Section 16. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS** 71362

General Services Fund Group					71363
4K9 891-609 Operating Expenses	\$	480,574	\$	479,574	71364
TOTAL GSF General Services Fund					71365
Group	\$	480,574	\$	479,574	71366
TOTAL ALL BUDGET FUND GROUPS	\$	480,574	\$	479,574	71367

**Section 17. ART OHIO ARTS COUNCIL** 71369

General Revenue Fund					71370
GRF 370-100 Personal Services	\$	1,896,848	\$	1,892,879	71371
GRF 370-200 Maintenance	\$	547,404	\$	532,998	71372
GRF 370-300 Equipment	\$	227,788	\$	27,056	71373
GRF 370-502 Program Subsidies	\$	9,896,320	\$	9,648,912	71374
TOTAL GRF General Revenue Fund	\$	12,568,360	\$	12,101,845	71375
General Services Fund Group					71376
4B7 370-603 Per Cent for Art	\$	86,366	\$	86,366	71377
Acquisitions					
460 370-602 Operations	\$	429,325	\$	429,325	71378
TOTAL GSF General Services Fund	\$	515,691	\$	515,691	71379
Group					
Federal Special Revenue Fund Group					71380
314 370-601 Federal Programs	\$	1,657,300	\$	1,657,300	71381
TOTAL FED Federal Special Revenue	\$	1,657,300	\$	1,657,300	71382
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	14,741,351	\$	14,274,836	71383

**EQUIPMENT** 71384

Of the foregoing appropriation item 370-300, Equipment,					71385
\$200,000 in fiscal year 2004 shall be used for computer upgrades.					71386

PROGRAM SUBSIDIES	71387
A museum is not eligible to receive funds from appropriation	71388
item 370-502, Program Subsidies, if \$8,000,000 or more in capital	71389
appropriations were appropriated by the state for the museum	71390
between January 1, 1986, and December 31, 2002.	71391
PER CENT FOR ART ACQUISITIONS	71392
The unencumbered balance remaining from prior projects of	71393
appropriation item 370-603, Per Cent for Art Acquisitions, shall	71394
be used by the Ohio Arts Council to pay for start-up costs in	71395
connection with the selection of artists of new Per Cent for Art	71396
projects.	71397
<b>Section 18. AFC OHIO ARTS AND SPORTS FACILITIES COMMISSION</b>	71398
General Revenue Fund	71399
GRF 371-321 Operating Expenses \$ 97,451 \$ 97,451	71400
GRF 371-401 Lease Rental Payments \$ 36,283,800 \$ 37,617,700	71401
TOTAL GRF General Revenue Fund \$ 36,381,251 \$ 37,715,151	71402
State Special Revenue Fund Group	71403
4T8 371-601 Riffe Theatre \$ 23,194 \$ 23,194	71404
Equipment Maintenance	
4T8 371-603 Project Administration \$ 1,035,377 \$ 1,074,339	71405
TOTAL SSR State Special Revenue \$ 1,058,571 \$ 1,097,533	71406
Group	
TOTAL ALL BUDGET FUND GROUPS \$ 37,439,822 \$ 38,812,684	71407
OHIO BUILDING AUTHORITY LEASE PAYMENTS	71408
The foregoing appropriation item 371-401, Lease Rental	71409
Payments, shall be used by the Arts and Sports Facilities	71410
Commission for payments to the Ohio Building Authority for the	71411
period from July 1, 2003, to June 30, 2005, pursuant to the	71412
primary leases and agreements for those buildings made under	71413
Chapter 152. of the Revised Code, but limited to the aggregate	71414

amount of \$73,901,500. This appropriation is the source of funds 71415  
pledged for bond service charges on related obligations issued 71416  
pursuant to Chapter 152. of the Revised Code. 71417

OPERATING EXPENSES 71418

The foregoing appropriation item 371-603, Project 71419  
Administration, shall be used by the Ohio Arts and Sports 71420  
Facilities Commission to carry out its responsibilities pursuant 71421  
to this section and Chapter 3383. of the Revised Code. 71422

Within ten days after the effective date of this section, or 71423  
as soon as possible thereafter, the Director of Budget and 71424  
Management shall determine the amount of cash from interest 71425  
earnings to be transferred from the Arts Facilities Building Fund 71426  
(Fund 030) and the Sports Facilities Building Fund (Fund 024) to 71427  
the Arts and Sports Facilities Commission Administration Fund 71428  
(Fund 4T8). The total amount transferred in fiscal year 2004 and 71429  
fiscal year 2005 may not exceed the total biennial appropriation 71430  
of \$2,109,716 in appropriation item 371-603, Project 71431  
Administration. 71432

By July 10, 2004, or as soon as possible thereafter, the 71433  
Director of Budget and Management shall determine the amount of 71434  
cash from interest earnings to be transferred from the Arts 71435  
Facilities Building Fund (Fund 030) and the Sports Facilities 71436  
Building Fund (Fund 024) to the Arts and Sports Commission 71437  
Administration Fund (Fund 4T8). The total amount transferred in 71438  
fiscal year 2004 and in fiscal year 2005 may not exceed the total 71439  
biennial appropriation of \$2,109,716 in appropriation item 71440  
371-603, Project Administration. 71441

**Section 19.** ATH ATHLETIC COMMISSION 71442

General Services Fund Group 71443

4K9 175-609 Athletic Commission - \$ 188,250 \$ 200,205 71444

Operating

TOTAL GSF General Services Fund	\$	188,250	\$	200,205	71445
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	188,250	\$	200,205	71446

TRANSFER OF CASH BALANCE FROM FUND 5R1 71447

On July 1, 2003, or as soon thereafter as possible, the 71448  
 Director of Budget and Management shall transfer the cash balance 71449  
 in the Athlete Agents Registration Fund (Fund 5R1) that was 71450  
 created in former section 4771.22 of the Revised Code to the 71451  
 Occupational Licensing and Regulatory Fund (Fund 4K9). The 71452  
 director shall cancel any existing encumbrances against 71453  
 appropriation item 175-602, Athlete Agents Registration (Fund 71454  
 5R1), and reestablish them against appropriation item 175-609, 71455  
 Athletic Commission - Operating (Fund 4K9). The amounts of the 71456  
 reestablished encumbrances are hereby appropriated. 71457

**Section 20. AGO ATTORNEY GENERAL** 71458

General Revenue Fund 71459

GRF 055-321 Operating Expenses	\$	53,885,937	\$	53,885,937	71460
GRF 055-405 Law-Related Education	\$	193,402	\$	194,183	71461
GRF 055-406 Community Police Match	\$	2,258,843	\$	2,258,843	71462

and Law Enforcement  
 Assistance

GRF 055-411 County Sheriffs	\$	731,879	\$	736,929	71463
GRF 055-415 County Prosecutors	\$	717,182	\$	723,490	71464
TOTAL GRF General Revenue Fund	\$	57,787,243	\$	57,799,382	71465

General Services Fund Group 71466

106 055-612 General Reimbursement	\$	18,870,196	\$	18,870,196	71467
107 055-624 Employment Services	\$	984,396	\$	984,396	71468
195 055-660 Workers' Compensation	\$	7,769,628	\$	7,769,628	71469

Section

4Y7 055-608 Title Defect	\$	570,623	\$	570,623	71470
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		Rescission					
4Z2	055-609	BCI Asset Forfeiture and Cost Reimbursement	\$	332,109	\$	332,109	71471
418	055-615	Charitable Foundations	\$	1,899,066	\$	1,899,066	71472
420	055-603	Attorney General Antitrust	\$	446,449	\$	446,449	71473
421	055-617	Police Officers' Training Academy Fee	\$	1,193,213	\$	1,193,213	71474
5A9	055-618	Telemarketing Fraud Enforcement	\$	52,378	\$	52,378	71475
590	055-633	Peace Officer Private Security Fund	\$	98,370	\$	98,370	71476
629	055-636	Corrupt Activity Investigation and Prosecution	\$	108,230	\$	108,230	71477
631	055-637	Consumer Protection Enforcement	\$	1,373,832	\$	1,373,832	71478
TOTAL GSF		General Services Fund					71479
Group			\$	33,698,490	\$	33,698,490	71480
Federal Special Revenue Fund Group							71481
3E5	055-638	Anti-Drug Abuse	\$	1,923,400	\$	1,981,102	71482
3R6	055-613	Attorney General Federal Funds	\$	3,730,191	\$	3,842,097	71483
306	055-620	Medicaid Fraud Control	\$	2,882,970	\$	2,969,459	71484
381	055-611	Civil Rights Legal Service	\$	390,815	\$	390,815	71485
383	055-634	Crime Victims Assistance	\$	17,561,250	\$	18,439,313	71486
TOTAL FED		Federal Special Revenue					71487
Fund Group			\$	26,488,626	\$	27,622,786	71488
State Special Revenue Fund Group							71489
4L6	055-606	DARE	\$	3,927,962	\$	3,927,962	71490

402	055-616	Victims of Crime	\$	27,933,893	\$	27,933,893	71491
417	055-621	Domestic Violence	\$	14,492	\$	14,492	71492
		Shelter					
419	055-623	Claims Section	\$	13,649,954	\$	13,649,954	71493
659	055-641	Solid and Hazardous	\$	621,159	\$	621,159	71494
		Waste Background					
		Investigations					
TOTAL SSR State Special Revenue							71495
Fund Group			\$	46,147,460	\$	46,147,460	71496
Holding Account Redistribution Fund Group							71497
R03	055-629	Bingo License Refunds	\$	5,200	\$	5,200	71498
R04	055-631	General Holding	\$	275,000	\$	275,000	71499
		Account					
R05	055-632	Antitrust Settlements	\$	10,400	\$	10,400	71500
R18	055-630	Consumer Frauds	\$	750,000	\$	750,000	71501
R42	055-601	Organized Crime	\$	200,000	\$	200,000	71502
		Commission Account					
TOTAL 090 Holding Account							71503
Redistribution Fund Group			\$	1,240,600	\$	1,240,600	71504
TOTAL ALL BUDGET FUND GROUPS							71505

LAW-RELATED EDUCATION 71506

The foregoing appropriation item 055-405, Law-Related 71507  
 Education, shall be distributed directly to the Ohio Center for 71508  
 Law-Related Education for the purposes of providing continuing 71509  
 citizenship education activities to primary and secondary students 71510  
 and accessing additional public and private money for new 71511  
 programs. 71512

WORKERS' COMPENSATION SECTION 71513

The Workers' Compensation Section Fund (Fund 195) shall 71514  
 receive payments from the Bureau of Workers' Compensation and the 71515  
 Ohio Industrial Commission at the beginning of each quarter of 71516

each fiscal year to fund legal services to be provided to the 71517  
Bureau of Workers' Compensation and the Ohio Industrial Commission 71518  
during the ensuing quarter. Such advance payment shall be subject 71519  
to adjustment. 71520

In addition, the Bureau of Workers' Compensation shall 71521  
transfer payments at the beginning of each quarter for the support 71522  
of the Workers' Compensation Fraud Unit. 71523

All amounts shall be mutually agreed upon by the Attorney 71524  
General, the Bureau of Workers' Compensation, and the Ohio 71525  
Industrial Commission. 71526

CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION 71527

The foregoing appropriation item 055-636, Corrupt Activity 71528  
Investigation and Prosecution, shall be used as provided by 71529  
division (D)(2) of section 2923.35 of the Revised Code to dispose 71530  
of the proceeds, fines, and penalties credited to the Corrupt 71531  
Activity Investigation and Prosecution Fund, which is created in 71532  
division (D)(1)(b) of section 2923.35 of the Revised Code. If it 71533  
is determined that additional amounts are necessary, the amounts 71534  
are hereby appropriated. 71535

COMMUNITY POLICE MATCH AND LAW ENFORCEMENT ASSISTANCE 71536

In fiscal years 2004 and 2005, the Attorney General's Office 71537  
may request the Director of Budget and Management to transfer 71538  
appropriation authority from appropriation item 055-321, Operating 71539  
Expenses, to appropriation item 055-406, Community Police Match 71540  
and Law Enforcement Assistance. The Director of Budget and 71541  
Management shall then transfer appropriation authority from 71542  
appropriation item 055-321, Operating Expenses, to appropriation 71543  
item 055-406, Community Police Match and Law Enforcement 71544  
Assistance. Moneys transferred to appropriation item 055-406, 71545  
Community Police Match and Law Enforcement Assistance, shall be 71546  
used to pay operating expenses and to provide grants to local law 71547

enforcement agencies and communities for the purpose of supporting 71548  
law enforcement-related activities. 71549

**Section 21. AUD AUDITOR OF STATE** 71550

General Revenue Fund 71551

GRF 070-321 Operating Expenses \$ 30,813,217 \$ 30,813,217 71552

GRF 070-403 Fiscal Watch/Emergency \$ 750,000 \$ 950,000 71553

Technical Assistance

GRF 070-405 Electronic Data \$ 823,193 \$ 823,193 71554

Processing - Auditing  
and Administration

GRF 070-406 Uniform Accounting \$ 1,774,394 \$ 1,774,394 71555

Network/Technology

Improvements Fund

TOTAL GRF General Revenue Fund \$ 34,160,804 \$ 34,360,804 71556

General Services Fund Group 71557

109 070-601 Public Audit Expense - \$ 10,592,547 \$ 11,651,800 71558

Intra-State

422 070-601 Public Audit Expense - \$ 37,617,072 \$ 39,497,925 71559

Local Government

584 070-603 Training Program \$ 124,999 \$ 131,250 71560

675 070-605 Uniform Accounting \$ 3,015,760 \$ 3,317,336 71561

Network

TOTAL GSF General Services Fund 71562

Group \$ 51,350,378 \$ 54,598,311 71563

Holding Account Redistribution Fund Group 71564

R06 070-604 Continuous Receipts \$ 50,000 \$ 60,000 71565

TOTAL 090 Holding Account 71566

Redistribution Fund Group \$ 50,000 \$ 60,000 71567

TOTAL ALL BUDGET FUND GROUPS \$ 85,561,182 \$ 89,019,115 71568

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE 71569



The foregoing appropriation item 070-403, Fiscal Watch/Emergency Technical Assistance, shall be used for all expenses incurred by the Office of the Auditor of State in its role relating to fiscal watch or fiscal emergency activities under Chapters 118. and 3316. of the Revised Code. Expenses include, but are not limited to, the following: duties related to the determination or termination of fiscal watch or fiscal emergency of municipal corporations, counties, or townships as outlined in Chapter 118. of the Revised Code and of school districts as outlined in Chapter 3316. of the Revised Code; development of preliminary accounting reports; performance of annual forecasts; provision of performance audits; and supervisory, accounting, or auditing services for the mentioned public entities and school districts. The unencumbered balance of appropriation item 070-403, Fiscal Watch/Emergency Technical Assistance, at the end of fiscal year 2004 is transferred to fiscal year 2005 for use under the same appropriation item.

**ELECTRONIC DATA PROCESSING**

The unencumbered balance of appropriation item 070-405, Electronic Data Processing - Auditing and Administration, at the end of fiscal year 2004 is transferred to fiscal year 2005 for use under the same appropriation item.

**UNIFORM ACCOUNTING NETWORK/TECHNOLOGY IMPROVEMENTS FUND**

The foregoing appropriation item 070-406, Uniform Accounting Network/Technology Improvements Fund, shall be used to pay the costs of developing and implementing the Uniform Accounting Network and technology improvements for the Office of the Auditor of State. The unencumbered balance of the appropriation at the end of fiscal year 2004 is transferred to fiscal year 2005 to pay the costs of developing and implementing the Uniform Accounting Network and technology improvements for the Office of the Auditor

of State.				71601
<b>Section 22. BRB BOARD OF BARBER EXAMINERS</b>				71602
General Services Fund Group				71603
4K9 877-609 Operating Expenses	\$	535,853	\$ 555,037	71604
TOTAL GSF General Services Fund				71605
Group	\$	535,853	\$ 555,037	71606
TOTAL ALL BUDGET FUND GROUPS	\$	535,853	\$ 555,037	71607
<b>Section 23. OBM OFFICE OF BUDGET AND MANAGEMENT</b>				71609
General Revenue Fund				71610
GRF 042-321 Budget Development and	\$	3,092,469	\$ 2,405,243	71611
Implementation				
GRF 042-409 Commission Closures	\$	95,000	\$ 0	71612
GRF 042-410 National Association	\$	27,089	\$ 27,902	71613
Dues				
GRF 042-412 Audit of Auditor of	\$	62,110	\$ 55,760	71614
State				
TOTAL GRF General Revenue Fund	\$	3,276,668	\$ 2,488,905	71615
General Services Fund Group				71616
105 042-603 State Accounting	\$	9,131,651	\$ 9,375,862	71617
TOTAL GSF General Services Fund	\$	9,131,651	\$ 9,375,862	71618
Group				
State Special Revenue Fund Group				71619
5N4 042-602 OAKS Project	\$	2,062,875	\$ 2,069,125	71620
Implementation				
TOTAL SSR State Special Revenue	\$	2,062,875	\$ 2,069,125	71621
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	14,471,194	\$ 13,933,892	71622
AUDIT COSTS				71623
Of the foregoing appropriation item 042-603, State				71624

Accounting, not more than \$400,000 in fiscal year 2004 and 71625  
 \$415,000 in fiscal year 2005 shall be used to pay for centralized 71626  
 audit costs associated with either Single Audit Schedules or 71627  
 financial statements prepared in conformance with generally 71628  
 accepted accounting principles for the state. 71629

**Section 24. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD 71630**

General Revenue Fund 71631

GRF 874-100 Personal Services \$ 2,031,400 \$ 2,051,400 71632

GRF 874-320 Maintenance and \$ 1,022,262 \$ 982,929 71633  
 Equipment

TOTAL GRF General Revenue Fund \$ 3,053,662 \$ 3,034,329 71634

General Services Fund Group 71635

4G5 874-603 Capitol Square \$ 15,000 \$ 15,000 71636

Maintenance Expenses

4S7 874-602 Statehouse Gift \$ 770,484 \$ 770,484 71637

Shop/Events

TOTAL GSF General Services 71638

Fund Group \$ 785,484 \$ 785,484 71639

Underground Parking Garage 71640

208 874-601 Underground Parking \$ 2,996,801 \$ 2,959,721 71641

Garage Operating

TOTAL UPG Underground Parking 71642

Garage \$ 2,996,801 \$ 2,959,721 71643

TOTAL ALL BUDGET FUND GROUPS \$ 6,835,947 \$ 6,779,534 71644

**Section 25. SCR STATE BOARD OF CAREER COLLEGES AND SCHOOLS 71646**

General Services Fund Group 71647

4K9 233-601 Operating Expenses \$ 404,025 \$ 431,525 71648

TOTAL GSF General Services Fund \$ 404,025 \$ 431,525 71649

Group

TOTAL ALL BUDGET FUND GROUPS \$ 404,025 \$ 431,525 71650

<b>Section 26.</b> CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD				71652
General Services Fund Group				71653
4K9 930-609 Operating Expenses	\$	225,000	\$ 450,000	71654
TOTAL GSF General Services Fund	\$	225,000	\$ 450,000	71655
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	225,000	\$ 450,000	71656

Notwithstanding any other law to the contrary, upon 71657  
certification by the Director of Administrative Services, the 71658  
Director of Budget and Management may transfer cash in an amount 71659  
not to exceed the fiscal year 2004 appropriation from Fund 5P1 71660  
(Credentialing Fund) to Fund 4K9 (Occupational Licensing). The 71661  
amount transferred is hereby appropriated. The cash shall be used 71662  
to pay expenses related to establishing the Chemical Dependency 71663  
Professionals Board, including, but not limited to, travel 71664  
reimbursement of board members. 71665

Upon completion of the transition of the Department of 71666  
Alcohol and Drug Addiction's certificates and credentials issuance 71667  
program to the Chemical Dependency Professionals Board, the 71668  
Director of Alcohol and Drug Addiction Services shall certify to 71669  
the Director of Budget and Management the remaining cash in Fund 71670  
5P1 (Credentialing Fund). The Director of Budget and Management 71671  
shall transfer the certified balance from Fund 5P1 to Fund 4K9 71672  
(Occupational Licensing). This transition shall be completed in 71673  
accordance with Section 5 of Am. Sub. H.B. 496 of the 124th 71674  
General Assembly. 71675

<b>Section 27.</b> CHR STATE CHIROPRACTIC BOARD				71676
General Services Fund Group				71677
4K9 878-609 Operating Expenses	\$	591,724	\$ 591,724	71678
TOTAL GSF General Services Fund				71679
Group	\$	591,724	\$ 591,724	71680

TOTAL ALL BUDGET FUND GROUPS	\$	591,724	\$	591,724	71681
<b>Section 28. CIV OHIO CIVIL RIGHTS COMMISSION</b>					71683
General Revenue Fund					71684
GRF 876-100 Personal Services	\$	7,000,000	\$	7,000,000	71685
GRF 876-200 Maintenance	\$	400,000	\$	400,000	71686
GRF 876-300 Equipment	\$	91,298	\$	91,298	71687
TOTAL GRF General Revenue Fund	\$	7,491,298	\$	7,491,298	71688
Federal Special Revenue Fund Group					71689
334 876-601 Federal Programs	\$	3,965,000	\$	3,790,000	71690
TOTAL FED Federal Special Revenue					71691
Fund Group	\$	3,965,000	\$	3,790,000	71692
State Special Revenue Fund Group					71693
217 876-604 General Reimbursement	\$	20,951	\$	20,951	71694
TOTAL SSR State Special					71695
Revenue Fund Group	\$	20,951	\$	20,951	71696
TOTAL ALL BUDGET FUND GROUPS	\$	11,477,249	\$	11,302,249	71697
<b>Section 29. COM DEPARTMENT OF COMMERCE</b>					71699
General Revenue Fund					71700
GRF 800-402 Grants-Volunteer Fire	\$	647,953	\$	647,953	71701
Departments					
GRF 800-410 Labor and Worker	\$	3,700,040	\$	3,725,040	71702
Safety					
Total GRF General Revenue Fund	\$	4,347,993	\$	4,372,993	71703
General Services Fund Group					71704
163 800-620 Division of	\$	3,385,803	\$	3,490,056	71705
Administration					
163 800-637 Information Technology	\$	2,753,299	\$	2,772,924	71706
5F1 800-635 Small Government Fire	\$	250,000	\$	250,000	71707
Departments					
TOTAL GSF General Services Fund					71708

Group		\$	6,389,102	\$	6,512,980	71709
Federal Special Revenue Fund Group						71710
348 800-622	Underground Storage Tanks	\$	195,008	\$	195,008	71711
348 800-624	Leaking Underground Storage Tanks	\$	1,850,000	\$	1,850,000	71712
349 800-626	OSHA Enforcement	\$	1,527,750	\$	1,604,140	71713
TOTAL FED Federal Special Revenue Fund Group		\$	3,572,758	\$	3,649,148	71714 71715
State Special Revenue Fund Group						71716
4B2 800-631	Real Estate Appraisal Recovery	\$	60,000	\$	60,000	71717
4H9 800-608	Cemeteries	\$	273,465	\$	273,465	71718
4L5 800-609	Fireworks Training and Education	\$	10,976	\$	10,976	71719
4X2 800-619	Financial Institutions	\$	2,020,798	\$	2,200,843	71720
5B9 800-632	PI & Security Guard Provider	\$	1,188,716	\$	1,188,716	71721
5K7 800-621	Penalty Enforcement	\$	50,000	\$	50,000	71722
543 800-602	Unclaimed Funds-Operating	\$	7,051,051	\$	7,051,051	71723
543 800-625	Unclaimed Funds-Claims	\$	25,512,867	\$	25,512,867	71724
544 800-612	Banks	\$	6,657,997	\$	6,657,997	71725
545 800-613	Savings Institutions	\$	2,765,618	\$	2,894,330	71726
546 800-610	Fire Marshal	\$	11,723,994	\$	11,787,994	71727
547 800-603	Real Estate Education/Research	\$	250,000	\$	250,000	71728
548 800-611	Real Estate Recovery	\$	100,000	\$	100,000	71729
549 800-614	Real Estate	\$	3,586,754	\$	3,705,892	71730
550 800-617	Securities	\$	4,600,000	\$	4,800,000	71731
552 800-604	Credit Union	\$	2,613,356	\$	2,751,852	71732
553 800-607	Consumer Finance	\$	3,764,279	\$	3,735,445	71733

556	800-615	Industrial Compliance	\$	24,627,687	\$	25,037,257	71734
6A4	800-630	Real Estate	\$	658,506	\$	664,006	71735
		Appraiser-Operating					
653	800-629	UST	\$	1,353,632	\$	1,249,632	71736
		Registration/Permit					
		Fee					
TOTAL SSR State Special Revenue							71737
Fund Group			\$	98,869,696	\$	99,982,323	71738
Liquor Control Fund Group							71739
043	800-601	Merchandising	\$	341,079,554	\$	353,892,432	71740
043	800-627	Liquor Control	\$	17,248,488	\$	15,981,346	71741
		Operating					
043	800-633	Economic Development	\$	23,277,500	\$	29,029,500	71742
		Debt Service					
043	800-636	Revitalization Debt	\$	4,747,800	\$	9,736,300	71743
		Service					
TOTAL LCF Liquor Control							71744
Fund Group			\$	386,353,342	\$	408,639,578	71745
TOTAL ALL BUDGET FUND GROUPS			\$	499,532,891	\$	523,157,022	71746

GRANTS-VOLUNTEER FIRE DEPARTMENTS 71747

The foregoing appropriation item 800-402, Grants-Volunteer 71748  
 Fire Departments, shall be used to make annual grants to volunteer 71749  
 fire departments of up to \$10,000, or up to \$25,000 if the 71750  
 volunteer fire department provides service for an area affected by 71751  
 a natural disaster. The grant program shall be administered by the 71752  
 Fire Marshal under the Department of Commerce. The Fire Marshal 71753  
 shall adopt rules necessary for the administration and operation 71754  
 of the grant program. 71755

LABOR AND WORKER SAFETY 71756

The Department of Commerce may designate a portion of 71757  
 appropriation item 800-410, Labor and Worker Safety, to be used to 71758

match federal funding for the OSHA on-site consultation program. 71759

SMALL GOVERNMENT FIRE DEPARTMENTS 71760

Upon the request of the Director of Commerce, the Director of 71761  
Budget and Management shall transfer \$250,000 cash in each fiscal 71762  
year from the State Fire Marshal Fund (Fund 546) within the State 71763  
Special Revenue Fund Group to the Small Government Fire 71764  
Departments Fund (Fund 5F1) within the General Services Fund 71765  
Group. 71766

Notwithstanding section 3737.17 of the Revised Code, the 71767  
foregoing appropriation item 800-635, Small Government Fire 71768  
Departments, may be used to provide loans to private fire 71769  
departments. 71770

PENALTY ENFORCEMENT 71771

The foregoing appropriation item 800-621, Penalty 71772  
Enforcement, shall be used to enforce sections 4115.03 to 4115.16 71773  
of the Revised Code. 71774

UNCLAIMED FUNDS PAYMENTS 71775

The foregoing appropriation item 800-625, Unclaimed 71776  
Funds-Claims, shall be used to pay claims pursuant to section 71777  
169.08 of the Revised Code. If it is determined that additional 71778  
amounts are necessary, the amounts are hereby appropriated. 71779

BANKS FUND (FUND 544) TRANSFER TO THE GRF 71780

On July 31, 2003, or as soon as possible thereafter, the 71781  
Director of Budget and Management may transfer up to \$2,000,000 71782  
cash from the Banks Fund (Fund 544) to the General Revenue Fund. 71783

FIRE MARSHAL FUND (FUND 546) TRANSFER TO THE GRF 71784

On July 31, 2003, or as soon as possible thereafter, the 71785  
Director of Budget and Management may transfer up to \$10,000,000 71786  
cash from the Fire Marshal Fund (Fund 546) to the General Revenue 71787  
Fund. 71788



REAL ESTATE FUND (FUND 549) TRANSFER TO THE GRF 71789

On July 31, 2003, or as soon as possible thereafter, the 71790  
Director of Budget and Management may transfer up to \$1,000,000 71791  
cash from the Real Estate Fund (Fund 549) to the General Revenue 71792  
Fund. 71793

INDUSTRIAL COMPLIANCE FUND (FUND 556) TRANSFER TO THE GRF 71794

On July 31, 2003, or as soon as possible thereafter, the 71795  
Director of Budget and Management may transfer up to \$1,000,000 71796  
cash from the Industrial Compliance Fund (Fund 556), to the 71797  
General Revenue Fund. 71798

INCREASED APPROPRIATION AUTHORITY - MERCHANDISING 71799

The foregoing appropriation item 800-601, Merchandising, 71800  
shall be used pursuant to section 4301.12 of the Revised Code. If 71801  
it is determined that additional amounts are necessary, the 71802  
amounts are hereby appropriated. 71803

ECONOMIC DEVELOPMENT DEBT SERVICE 71804

The foregoing appropriation item 800-633, Economic 71805  
Development Debt Service, shall be used to meet all payments at 71806  
the times they are required to be made during the period from July 71807  
1, 2003, to June 30, 2005, for bond service charges on obligations 71808  
issued under Chapter 166. of the Revised Code. If it is determined 71809  
that additional appropriations are necessary for this purpose, 71810  
such amounts are hereby appropriated, subject to the limitations 71811  
set forth in section 166.11 of the Revised Code. The General 71812  
Assembly acknowledges that an appropriation for this purpose is 71813  
not required, but is made in this form and in this act for record 71814  
purposes only. 71815

REVITALIZATION DEBT SERVICE 71816

The foregoing appropriation item 800-636, Revitalization Debt 71817  
Service, shall be used to pay debt service and related financing 71818

costs under sections 151.01 and 151.40 of the Revised Code during 71819  
the period from July 1, 2003, to June 30, 2005. If it is 71820  
determined that additional appropriations are necessary for this 71821  
purpose, such amounts are hereby appropriated. The General 71822  
Assembly acknowledges the priority of the pledge of a portion of 71823  
receipts from that source to obligations issued and to be issued 71824  
under Chapter 166. of the Revised Code. 71825

**ADMINISTRATIVE ASSESSMENTS** 71826

Notwithstanding any other provision of law to the contrary, 71827  
Fund 163, Division of Administration, shall receive assessments 71828  
from all operating funds of the department in accordance with 71829  
procedures prescribed by the Director of Commerce and approved by 71830  
the Director of Budget and Management. 71831

**Section 30. OCC OFFICE OF CONSUMERS' COUNSEL** 71832

General Services Fund Group				71833
5F5 053-601 Operating Expenses	\$	9,277,519	\$ 9,277,519	71834
TOTAL GSF General Services Fund	\$	9,277,519	\$ 9,277,519	71835
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	9,277,519	\$ 9,277,519	71836

**Section 31. CEB CONTROLLING BOARD** 71838

General Revenue Fund				71839
GRF 911-401 Emergency	\$	5,000,000	\$ 5,000,000	71840
Purposes/Contingencies				
GRF 911-404 Mandate Assistance	\$	1,462,500	\$ 1,462,500	71841
GRF 911-441 Ballot Advertising	\$	887,500	\$ 487,500	71842
Costs				
TOTAL GRF General Revenue Fund	\$	7,350,000	\$ 6,950,000	71843
State Special Revenue Fund Group				71844
5E2 911-601 Disaster Services	\$	4,000,000	\$ 0	71845
TOTAL SSR State Special				71846

Revenue Fund Group	\$	4,000,000	\$	0	71847
TOTAL ALL BUDGET FUND GROUPS	\$	11,350,000	\$	6,950,000	71848

FEDERAL SHARE 71849

In transferring appropriations to or from appropriation items 71850  
that have federal shares identified in this act, the Controlling 71851  
Board shall add or subtract corresponding amounts of federal 71852  
matching funds at the percentages indicated by the state and 71853  
federal division of the appropriations in this act. Such changes 71854  
are hereby appropriated. 71855

DISASTER ASSISTANCE 71856

Pursuant to requests submitted by the Department of Public 71857  
Safety, the Controlling Board may approve transfers from the 71858  
Emergency Purposes Fund to a Department of Public Safety General 71859  
Revenue Fund appropriation item to provide funding for assistance 71860  
to political subdivisions made necessary by natural disasters or 71861  
emergencies. Such transfers may be requested and approved prior to 71862  
the occurrence of any specific natural disasters or emergencies in 71863  
order to facilitate the provision of timely assistance. 71864

SOUTHERN OHIO CORRECTIONAL FACILITY COST 71865

The Office of Criminal Justice Services and the Public 71866  
Defender Commission may each request, upon approval of the 71867  
Director of Budget and Management, additional funds from the 71868  
Emergency Purposes Fund for costs related to the disturbance that 71869  
occurred on April 11, 1993, at the Southern Ohio Correctional 71870  
Facility in Lucasville, Ohio. 71871

DISASTER SERVICES 71872

Pursuant to requests submitted by the Department of Public 71873  
Safety, the Controlling Board may approve transfers from the 71874  
foregoing appropriation item 911-601, Disaster Services, to a 71875  
Department of Public Safety General Revenue Fund appropriation 71876

item to provide for assistance to political subdivisions made 71877  
necessary by natural disasters or emergencies. These transfers may 71878  
be requested and approved prior to the occurrence of any specific 71879  
natural disasters or emergencies in order to facilitate the 71880  
provision of timely assistance. The Emergency Management Agency of 71881  
the Department of Public Safety shall use the funding for disaster 71882  
aid requests that meet the Emergency Management Agency's criteria 71883  
for assistance. 71884

The foregoing appropriation item 911-601, Disaster Services, 71885  
shall be used by the Controlling Board, pursuant to requests 71886  
submitted by state agencies, to transfer cash and appropriation 71887  
authority to any fund and appropriation item for the payment of 71888  
state agency program expenses as follows: 71889

(A) The southern Ohio flooding, referred to as 71890  
FEMA-DR-1164-OH; 71891

(B) The flood/storm disaster referred to as FEMA-DR-1227-OH; 71892

(C) The Southern Ohio flooding, referred to as 71893  
FEMA-DR-1321-OH; 71894

(D) The flooding referred to as FEMA-DR-1339-OH; 71895

(E) The tornado/storms referred to as FEMA-DR-1343-OH; 71896

(F) Other disasters declared by the Governor, if the Director 71897  
of Budget and Management determines that sufficient funds exist 71898  
beyond the expected program costs of these disasters. 71899

The unencumbered balance of appropriation item 911-601, 71900  
Disaster Services, at the end of fiscal year 2004 is transferred 71901  
to fiscal year 2005 for use under the same appropriation item. 71902

MANDATE ASSISTANCE 71903

(A) The foregoing appropriation item 911-404, Mandate 71904  
Assistance, shall be used to provide financial assistance to local 71905  
units of government, school districts, and fire departments for 71906

the cost of the following three unfunded state mandates: 71907

(1) The cost to county prosecutors for prosecuting certain 71908  
 felonies that occur on the grounds of state institutions operated 71909  
 by the Department of Rehabilitation and Correction and the 71910  
 Department of Youth Services; 71911

(2) The cost, primarily to small villages and townships, of 71912  
 providing firefighter training and equipment or gear; 71913

(3) The cost to school districts of in-service training for 71914  
 child abuse detection. 71915

(B) The Department of Commerce, the Office of Criminal 71916  
 Justice Services, and the Department of Education may prepare and 71917  
 submit to the Controlling Board one or more requests to transfer 71918  
 appropriations from appropriation item 911-404, Mandate 71919  
 Assistance. The state agencies charged with this administrative 71920  
 responsibility are listed below, as well as the estimated annual 71921  
 amounts that may be used for each program of state financial 71922  
 assistance. 71923

	ADMINISTERING	ESTIMATED ANNUAL	
PROGRAM	AGENCY	AMOUNT	
Prosecution Costs	Office of Criminal	\$146,500	71924
	Justice Services		71925
Firefighter Training	Department of	\$731,000	71926
Costs	Commerce		71927
Child Abuse Detection	Department of	\$585,000	71928
Training Costs	Education		71929

(C) Subject to the total amount appropriated in each fiscal 71930  
 year for appropriation item 911-404, Mandate Assistance, the 71931  
 Department of Commerce, the Office of Criminal Justice Services, 71932  
 and the Department of Education may request from the Controlling 71933  
 Board that amounts smaller or larger than these estimated annual 71934  
 amounts be transferred to each program. 71935

(D) In addition to making the initial transfers requested by 71936  
the Department of Commerce, the Office of Criminal Justice 71937  
Services, and the Department of Education, the Controlling Board 71938  
may transfer appropriations received by a state agency under this 71939  
section back to appropriation item 911-404, Mandate Assistance, or 71940  
to one or more of the other programs of state financial assistance 71941  
identified under this section. 71942

(E) It is expected that not all costs incurred by local units 71943  
of government, school districts, and fire departments under each 71944  
of the three programs of state financial assistance identified 71945  
under this section will be fully reimbursed by the state. 71946  
Reimbursement levels may vary by program and shall be based on: 71947  
the relationship between the appropriation transfers requested by 71948  
the Department of Commerce, the Office of Criminal Justice 71949  
Services, and the Department of Education and provided by the 71950  
Controlling Board for each of the programs; the rules and 71951  
procedures established for each program by the administering state 71952  
agency; and the actual costs incurred by local units of 71953  
government, school districts, and fire departments. 71954

(F) Each of these programs of state financial assistance 71955  
shall be carried out as follows: 71956

(1) PROSECUTION COSTS 71957

(a) Appropriations may be transferred to the Office of 71958  
Criminal Justice Services to cover local prosecution costs for 71959  
aggravated murder, murder, felonies of the first degree, and 71960  
felonies of the second degree that occur on the grounds of 71961  
institutions operated by the Department of Rehabilitation and 71962  
Correction and the Department of Youth Services. 71963

(b) Upon a delinquency filing in juvenile court or the return 71964  
of an indictment for aggravated murder, murder, or any felony of 71965  
the first or second degree that was committed at a Department of 71966

Youth Services or a Department of Rehabilitation and Correction 71967  
institution, the affected county may, in accordance with rules 71968  
that the Office of Criminal Justice Services shall adopt, apply to 71969  
the Office of Criminal Justice Services for a grant to cover all 71970  
documented costs that are incurred by the county prosecutor's 71971  
office. 71972

(c) Twice each year, the Office of Criminal Justice Services 71973  
shall designate counties to receive grants from those counties 71974  
that have submitted one or more applications in compliance with 71975  
the rules that have been adopted by the Office of Criminal Justice 71976  
Services for the receipt of such grants. In each year's first 71977  
round of grant awards, if sufficient appropriations have been 71978  
made, up to a total of \$100,000 may be awarded. In each year's 71979  
second round of grant awards, the remaining appropriations 71980  
available for this purpose may be awarded. 71981

(d) If for a given round of grants there are insufficient 71982  
appropriations to make grant awards to all the eligible counties, 71983  
the first priority shall be given to counties with cases involving 71984  
aggravated murder and murder; second priority shall be given to 71985  
cases involving a felony of the first degree; and third priority 71986  
shall be given to cases involving a felony of the second degree. 71987  
Within these priorities, the grant awards shall be based on the 71988  
order in which the applications were received, except that 71989  
applications for cases involving a felony of the first or second 71990  
degree shall not be considered in more than two consecutive rounds 71991  
of grant awards. 71992

(2) FIREFIGHTER TRAINING COSTS 71993

Appropriations may be transferred to the Department of 71994  
Commerce for use as full or partial reimbursement to local units 71995  
of government and fire departments for the cost of firefighter 71996  
training and equipment or gear. In accordance with rules that the 71997  
department shall adopt, a local unit of government or fire 71998

department may apply to the department for a grant to cover all 71999  
documented costs that are incurred to provide firefighter training 72000  
and equipment or gear. The department shall make grants within the 72001  
limits of the funding provided, with priority given to fire 72002  
departments that serve small villages and townships. 72003

(3) CHILD ABUSE DETECTION TRAINING COSTS 72004

Appropriations may be transferred to the Department of 72005  
Education for disbursement to local school districts as full or 72006  
partial reimbursement for the cost of providing in-service 72007  
training for child abuse detection. In accordance with rules that 72008  
the department shall adopt, a local school district may apply to 72009  
the department for a grant to cover all documented costs that are 72010  
incurred to provide in-service training for child abuse detection. 72011  
The department shall make grants within the limits of the funding 72012  
provided. 72013

(G) Any moneys allocated within appropriation item 911-404, 72014  
Mandate Assistance, not fully utilized may, upon application of 72015  
the Ohio Public Defender Commission, and with the approval of the 72016  
Controlling Board, be disbursed to boards of county commissioners 72017  
to provide additional reimbursement for the costs incurred by 72018  
counties in providing defense to indigent defendants pursuant to 72019  
Chapter 120. of the Revised Code. 72020

The amount to be disbursed to each county shall be allocated 72021  
proportionately on the basis of the total amount of reimbursement 72022  
paid to each county as a percentage of the amount of reimbursement 72023  
paid to all of the counties during the most recent state fiscal 72024  
year for which data is available and as calculated by the Ohio 72025  
Public Defender Commission. 72026

BALLOT ADVERTISING COSTS 72027

Pursuant to requests submitted by the Ohio Ballot Board, the 72028  
Controlling Board shall approve transfers from the foregoing 72029



appropriation item 911-441, Ballot Advertising Costs, to an Ohio 72030  
 Ballot Board appropriation item in order to reimburse county 72031  
 boards of elections for the cost of public notices associated with 72032  
 statewide ballot initiatives. 72033

Of the foregoing appropriation item 911-441, Ballot 72034  
 Advertising Costs, the Director of Budget and Management shall 72035  
 transfer any amounts that are not needed for the purpose of 72036  
 reimbursing county boards of elections for the cost of public 72037  
 notices associated with statewide ballot initiatives to 72038  
 appropriation item 911-404, Mandate Assistance. 72039

**Section 32. COS STATE BOARD OF COSMETOLOGY** 72040

General Services Fund Group 72041  
 4K9 879-609 Operating Expenses \$ 2,681,359 \$ 2,822,359 72042  
 TOTAL GSF General Services Fund 72043  
 Group \$ 2,681,359 \$ 2,822,359 72044  
 TOTAL ALL BUDGET FUND GROUPS \$ 2,681,359 \$ 2,822,359 72045

**Section 33. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND** 72047  
**FAMILY THERAPIST BOARD** 72048

General Services Fund Group 72049  
 4K9 899-609 Operating Expenses \$ 1,021,524 \$ 1,044,812 72050  
 TOTAL GSF General Services Fund 72051  
 Group \$ 1,021,524 \$ 1,044,812 72052  
 TOTAL ALL BUDGET FUND GROUPS \$ 1,021,524 \$ 1,044,812 72053

**Section 34. CLA COURT OF CLAIMS** 72055

General Revenue Fund 72056  
 GRF 015-321 Operating Expenses \$ 2,452,000 \$ 2,477,000 72057  
 TOTAL GRF General Revenue Fund \$ 2,452,000 \$ 2,477,000 72058  
 State Special Revenue Fund Group 72059  
 5K2 015-603 CLA Victims of Crime \$ 1,532,043 \$ 1,582,684 72060

TOTAL SSR State Special Revenue				72061
Fund Group	\$	1,532,043	\$ 1,582,684	72062
TOTAL ALL BUDGET FUND GROUPS	\$	3,984,043	\$ 4,059,684	72063
OFFICE SPACE RENTAL EXPENSES				72064
Of the foregoing appropriation item 015-321, Operating				72065
Expenses, in fiscal year 2005, \$302,000 shall be for the purpose				72066
of paying fiscal year 2005 office space rental expenses. Upon				72067
approval of the Controlling Board, the Court of Claims may expend				72068
up to \$302,000 for the purpose of paying fiscal year 2005 office				72069
space rental expenses.				72070
<b>Section 35. CJS OFFICE OF CRIMINAL JUSTICE SERVICES</b>				72071
General Revenue Fund				72072
GRF 196-401 Criminal Justice	\$	534,570	\$ 520,503	72073
Information System				
GRF 196-403 Center for Violence	\$	20,000	\$ 20,000	72074
Prevention				
GRF 196-405 Violence Prevention	\$	707,076	\$ 688,469	72075
Subsidy				
GRF 196-424 Operating Expenses	\$	1,181,371	\$ 1,177,971	72076
TOTAL GRF General Revenue Fund	\$	2,443,017	\$ 2,406,943	72077
General Services Fund Group				72078
4P6 196-601 General Services	\$	135,450	\$ 86,500	72079
TOTAL GSF Services Fund Group	\$	135,450	\$ 86,500	72080
Federal Special Revenue Fund Group				72081
3L5 196-604 Justice Program	\$	30,334,908	\$ 30,311,870	72082
3U1 196-602 Criminal Justice	\$	1,000,000	\$ 0	72083
Federal Programs				
3V8 196-605 Federal Program	\$	250,000	\$ 0	72084
Purposes FFY 01				
TOTAL FED Federal Special Revenue	\$	31,584,908	\$ 30,311,870	72085

Fund Group

TOTAL ALL BUDGET FUND GROUPS	\$	34,163,375	\$	32,805,313	72086
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INDIGENT DEFENSE 72087

The Office of Criminal Justice Services shall make all 72088  
 efforts to maximize the amount of funding available for the 72089  
 defense of indigent persons. 72090

CRIMINAL JUSTICE INFORMATION SYSTEM 72091

The foregoing appropriation item 196-401, Criminal Justice 72092  
 Information System, shall be used by the Office of Criminal 72093  
 Justice Services to work on a plan to improve Ohio's criminal 72094  
 justice information systems. The Director of Criminal Justice 72095  
 Services shall evaluate the progress of this plan and issue a 72096  
 report to the Governor, the Speaker and the Minority Leader of the 72097  
 House of Representatives, the President and the Minority Leader of 72098  
 the Senate, the Criminal Justice Policy Board, and the Legislative 72099  
 Service Commission by the first day of January of each year of the 72100  
 two-year biennium beginning July 1, 2003, and ending June 30, 72101  
 2005. 72102

VIOLENCE PREVENTION SUBSIDY 72103

Of the foregoing appropriation item 196-405, Violence 72104  
 Prevention Subsidy, \$60,000 in fiscal year 2004 shall be used for 72105  
 Montgomery County's STVM Safe House Domestic Transitional Housing. 72106

OPERATING EXPENSES 72107

Of the foregoing appropriation item 196-424, Operating 72108  
 Expenses, up to \$650,000 in each fiscal year shall be used for the 72109  
 purpose of matching federal funds. 72110

JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANT 72111

The foregoing appropriation item 196-602, Criminal Justice 72112  
 Federal Programs, shall be used to fund and close out the Juvenile 72113  
 Accountability Incentive Block Grant Program for federal fiscal 72114

year 1999. 72115

**Section 36. DEN STATE DENTAL BOARD** 72116

General Services Fund Group 72117

4K9 880-609 Operating Expenses \$ 1,324,456 \$ 1,346,656 72118

TOTAL GSF General Services Fund 72119

Group \$ 1,324,456 \$ 1,346,656 72120

TOTAL ALL BUDGET FUND GROUPS \$ 1,324,456 \$ 1,346,656 72121

**Section 37. BDP BOARD OF DEPOSIT** 72123

General Services Fund Group 72124

4M2 974-601 Board of Deposit \$ 1,676,000 \$ 1,676,000 72125

TOTAL GSF General Services Fund 72126

Group \$ 1,676,000 \$ 1,676,000 72127

TOTAL ALL BUDGET FUND GROUPS \$ 1,676,000 \$ 1,676,000 72128

**BOARD OF DEPOSIT EXPENSE FUND** 72129

Upon receiving certification of expenses from the Treasurer 72130

of State, the Director of Budget and Management shall transfer 72131

cash from the Investment Earnings Redistribution Fund (Fund 608) 72132

to the Board of Deposit Expense Fund (Fund 4M2). The latter fund 72133

shall be used to pay for banking charges and fees required for the 72134

operation of the State of Ohio Regular Account. 72135

**Section 38. DEV DEPARTMENT OF DEVELOPMENT** 72136

General Revenue Fund 72137

GRF 195-321 Operating Expenses \$ 2,695,236 \$ 3,020,115 72138

GRF 195-401 Thomas Edison Program \$ 16,634,934 \$ 17,334,934 72139

GRF 195-404 Small Business \$ 1,740,722 \$ 1,740,722 72140

Development

GRF 195-405 Minority Business \$ 1,620,755 \$ 1,669,378 72141

Development Division

GRF 195-407 Travel and Tourism \$ 6,049,345 \$ 7,049,345 72142

GRF 195-408	Coal Research Development	\$	588,041	\$	599,802	72143
GRF 195-410	Defense Conversion Assistance	\$	2,500,000	\$	0	72144
GRF 195-412	Business Development Grants	\$	9,750,000	\$	10,500,000	72145
GRF 195-414	First Frontier Match	\$	389,987	\$	389,987	72146
GRF 195-415	Economic Development Division and Regional Offices	\$	6,394,975	\$	6,394,975	72147
GRF 195-416	Governor's Office of Appalachia	\$	4,372,324	\$	4,372,324	72148
GRF 195-417	Urban/Rural Initiative	\$	589,390	\$	589,390	72149
GRF 195-422	Third Frontier Action Fund	\$	18,000,000	\$	20,685,000	72150
GRF 195-426	Clean Ohio Administration	\$	518,730	\$	518,730	72151
GRF 195-432	International Trade	\$	4,492,713	\$	4,492,713	72152
GRF 195-433	State Marketing Program	\$	500,000	\$	750,000	72153
GRF 195-434	Investment in Training Grants	\$	12,227,500	\$	12,227,500	72154
GRF 195-436	Labor/Management Cooperation	\$	811,869	\$	811,869	72155
GRF 195-497	CDBG Operating Match	\$	1,107,400	\$	1,107,400	72156
GRF 195-498	State Energy Match	\$	100,000	\$	100,000	72157
GRF 195-501	Appalachian Local Development Districts	\$	380,080	\$	380,080	72158
GRF 195-502	Appalachian Regional Commission Dues	\$	238,274	\$	246,803	72159
GRF 195-507	Travel and Tourism Grants	\$	1,000,000	\$	1,000,000	72160
GRF 195-515	Economic Development	\$	10,000,000	\$	10,000,000	72161

		Contingency				
GRF 195-516	Shovel Ready Sites	\$	2,500,000	\$	2,500,000	72162
GRF 195-905	Third Frontier	\$	0	\$	7,360,000	72163
	Research & Commercialization General Obligation Debt Service					
GRF 195-906	Coal	\$	7,231,200	\$	9,185,100	72164
	Research/Development General Obligation Debt Service					
TOTAL GRF	General Revenue Fund	\$	112,433,475	\$	125,026,167	72165
	General Services Fund Group					72166
135 195-605	Supportive Services	\$	7,417,068	\$	7,539,686	72167
136 195-621	International Trade	\$	24,915	\$	24,915	72168
685 195-636	General Reimbursements	\$	1,316,012	\$	1,232,530	72169
TOTAL GSF	General Services Fund					72170
Group		\$	8,757,995	\$	8,797,131	72171
	Federal Special Revenue Fund Group					72172
3K8 195-613	Community Development	\$	65,000,000	\$	65,000,000	72173
	Block Grant					
3K9 195-611	Home Energy Assistance	\$	85,036,000	\$	85,036,000	72174
	Block Grant					
3K9 195-614	HEAP Weatherization	\$	16,219,479	\$	16,219,479	72175
3L0 195-612	Community Services	\$	25,235,000	\$	25,235,000	72176
	Block Grant					
3V1 195-601	HOME Program	\$	40,000,000	\$	40,000,000	72177
308 195-602	Appalachian Regional	\$	350,200	\$	350,200	72178
	Commission					
308 195-603	Housing and Urban	\$	5,000,000	\$	5,000,000	72179
	Development					
308 195-605	Federal Projects	\$	15,300,248	\$	15,300,248	72180

308	195-609	Small Business Administration	\$	4,196,381	\$	4,296,381	72181
308	195-618	Energy Federal Grants	\$	3,397,659	\$	3,397,659	72182
335	195-610	Oil Overcharge	\$	8,500,000	\$	8,500,000	72183
380	195-622	Housing Development Operating	\$	5,606,080	\$	5,667,627	72184
TOTAL FED Federal Special Revenue							72185
Fund Group			\$	273,841,047	\$	274,002,594	72186
State Special Revenue Fund Group							72187
4F2	195-639	State Special Projects	\$	540,183	\$	290,183	72188
4H4	195-641	First Frontier	\$	500,000	\$	500,000	72189
4S0	195-630	Enterprise Zone Operating	\$	211,900	\$	211,900	72190
4S1	195-634	Job Creation Tax Credit Operating	\$	375,800	\$	375,800	72191
4W1	195-646	Minority Business Enterprise Loan	\$	2,580,597	\$	2,580,597	72192
444	195-607	Water and Sewer Commission Loans	\$	523,775	\$	523,775	72193
445	195-617	Housing Finance Operating	\$	5,040,843	\$	4,983,738	72194
450	195-624	Minority Business Bonding Program Administration	\$	13,563	\$	13,563	72195
451	195-625	Economic Development Financing Operating	\$	2,358,310	\$	2,358,310	72196
5M4	195-659	Universal Service	\$	170,000,000	\$	170,000,000	72197
5M5	195-660	Energy Efficiency Revolving Loan	\$	12,000,000	\$	12,000,000	72198
611	195-631	Water and Sewer Administration	\$	15,713	\$	15,713	72199
617	195-654	Volume Cap Administration	\$	200,000	\$	200,000	72200

646	195-638	Low and Moderate	\$	40,000,000	\$	40,000,000	72201
		Income Housing Trust					
		Fund					
		TOTAL SSR State Special Revenue					72202
		Fund Group	\$	234,360,684	\$	234,053,579	72203
		Facilities Establishment Fund Group					72204
037	195-615	Facilities	\$	63,931,149	\$	63,931,149	72205
		Establishment					
4Z6	195-647	Rural Industrial Park	\$	5,000,000	\$	5,000,000	72206
		Loan					
5D2	195-650	Urban Redevelopment	\$	10,475,000	\$	10,475,000	72207
		Loans					
5H1	195-652	Family Farm Loan	\$	1,500,000	\$	1,500,000	72208
		Guarantee					
5S8	195-627	Rural Development	\$	5,000,000	\$	5,000,000	72209
		Initiative					
5S9	195-628	Capital Access Loan	\$	3,000,000	\$	3,000,000	72210
		Program					
		TOTAL 037 Facilities					72211
		Establishment Fund Group	\$	88,906,149	\$	88,906,149	72212
		Clean Ohio Revitalization Fund					72213
003	195-663	Clean Ohio Operating	\$	150,000	\$	150,000	72214
		TOTAL 003 Clean Ohio Revitalization	\$	150,000	\$	150,000	72215
		Fund					
		Coal Research/Development Fund					72216
046	195-632	Coal Research &	\$	13,168,357	\$	13,168,357	72217
		Development Fund					
		TOTAL 046 Coal Research/Development	\$	13,168,357	\$	13,168,357	72218
		Fund					
		TOTAL ALL BUDGET FUND GROUPS	\$	731,617,707	\$	744,103,977	72219
		<b>Section 38.01. THOMAS EDISON PROGRAM</b>					72221



The foregoing appropriation item 195-401, Thomas Edison Program, shall be used for the purposes of sections 122.28 to 122.38 of the Revised Code in order to provide funds for cooperative public and private efforts in technological innovation to promote the development and transfer of technology by and to Ohio businesses that will lead to the creation of jobs, and to provide for the administration of this program by the Technology Division. 72222  
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Of the foregoing appropriation item 195-401, Thomas Edison Program, not more than \$2,000,000 in fiscal year 2004 and \$2,300,000 in fiscal year 2005 shall be used for operating expenditures in administering the programs of the Technology Division. 72230  
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**Section 38.02. SMALL BUSINESS DEVELOPMENT** 72235

The foregoing appropriation item 195-404, Small Business Development, shall be used to ensure that the unique needs and concerns of small businesses are addressed. 72236  
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The foregoing appropriation item 195-404, Small Business Development, may be used to provide grants to local organizations to support the operation of Small Business Development Centers and other local economic development activity promoting small business, and for the cost of administering the small business development center program. The centers shall provide technical, financial, and management consultation for small business and shall facilitate access to state and federal programs. These funds shall be used as matching funds for grants from the United States Small Business Administration and other federal agencies, pursuant to Public Law No. 96-302 (1980) as amended by Public Law No. 98-395 (1984), and regulations and policy guidelines for the programs under this law. 72239  
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In addition, the Office of Small Business may operate the 72252  
1st-Stop Business Connection and implement and coordinate the 72253  
duties imposed on the Department of Development by Am. Sub. S.B. 72254  
239 of the 115th General Assembly. 72255

MINORITY BUSINESS DEVELOPMENT DIVISION 72256

Of the foregoing appropriation item 195-405, Minority 72257  
Business Development Division, up to \$1,060,000 but not less than 72258  
\$954,000 in each fiscal year shall be used to fund minority 72259  
contractors and business assistance organizations. The Minority 72260  
Business Development Division shall determine which cities need 72261  
minority contractors and business assistance organizations by 72262  
utilizing United States Census Bureau data and zip codes to locate 72263  
the highest concentrations of minority businesses. The Minority 72264  
Business Development Division also shall determine the numbers of 72265  
minority contractors and business assistance organizations 72266  
necessary and the amount of funding to be provided each. In 72267  
addition, the Minority Business Development Division shall 72268  
continue to plan and implement business conferences. 72269

COAL RESEARCH DEVELOPMENT 72270

The foregoing appropriation item 195-408, Coal Research 72271  
Development, shall be used for the administrative costs of the 72272  
Coal Development Office within the Technology Division. 72273

**Section 38.03. DEFENSE CONVERSION ASSISTANCE** 72274

The foregoing appropriation item 195-410, Defense Conversion 72275  
Assistance, shall be used to conduct a comprehensive study of the 72276  
military installations in Ohio, including Wright Patterson Air 72277  
Force Base, Springfield Air National Guard Base, and other Ohio 72278  
military installations in the state, for the U.S. Department of 72279  
Defense Base Relocation and Closures (BRAC) Study Committee to 72280  
determine the economic importance of the bases. 72281

**Section 38.04. BUSINESS DEVELOPMENT** 72282

The foregoing appropriation item 195-412, Business 72283  
Development Grants, shall be used as an incentive for attracting 72284  
and retaining business opportunities for the state. Any such 72285  
business opportunity, whether new, expanding, or relocating in 72286  
Ohio, is eligible for funding. The project must create or retain a 72287  
significant number of jobs for Ohioans. Grant awards may be 72288  
considered only when (1) the project's viability hinges on an 72289  
award of funds from appropriation item 195-412, Business 72290  
Development Grants; (2) all other public or private sources of 72291  
financing have been considered; or (3) the funds act as a catalyst 72292  
for the infusion into the project of other financing sources. 72293

The department's primary goal shall be to award funds to 72294  
political subdivisions of the state for off-site infrastructure 72295  
improvements. In order to meet the particular needs of economic 72296  
development in a region, the department may elect to award funds 72297  
directly to a business for on-site infrastructure improvements. 72298  
"Infrastructure improvements" mean improvements to water system 72299  
facilities, sewer and sewage treatment facilities, electric or gas 72300  
service facilities, fiber optic facilities, rail facilities, site 72301  
preparation, and parking facilities. The Director of Development 72302  
may recommend the funds be used in an alternative manner when 72303  
deemed appropriate to meet an extraordinary economic development 72304  
opportunity or need. 72305

The foregoing appropriation item 195-412, Business 72306  
Development Grants, may be expended only after the submission of a 72307  
request to the Controlling Board by the Department of Development 72308  
outlining the planned use of the funds, and the subsequent 72309  
approval of the request by the Controlling Board. 72310

The foregoing appropriation item 195-412, Business 72311  
Development Grants, may be used for, but is not limited to, 72312

construction, rehabilitation, and acquisition projects for rail 72313  
freight assistance as requested by the Department of 72314  
Transportation. The Director of Transportation shall submit the 72315  
proposed projects to the Director of Development for an evaluation 72316  
of potential economic benefit. 72317

**Section 38.05. FIRST FRONTIER MATCH** 72318

The foregoing appropriation item 195-414, First Frontier 72319  
Match, shall be used as matching funds to targeted counties for 72320  
the purpose of marketing state, regional, and local 72321  
characteristics that may attract economic development. "Targeted 72322  
counties" mean counties that have a population of less than 72323  
175,000 residents. The appropriation may be used either for 72324  
marketing programs by individual targeted counties or for regional 72325  
marketing campaigns that are marketing programs in which at least 72326  
one targeted county is participating with one or more other 72327  
targeted counties or larger counties. 72328

**ECONOMIC DEVELOPMENT DIVISION AND REGIONAL OFFICES** 72329

The foregoing appropriation item 195-415, Economic 72330  
Development Division and Regional Offices, shall be used for the 72331  
operating expenses of the Economic Development Division and the 72332  
regional economic development offices and for grants for 72333  
cooperative economic development ventures. 72334

Of the foregoing appropriation item 195-415, Economic 72335  
Development Division and Regional Offices, up to \$500,000 in 72336  
fiscal year 2004 shall be used to support the Ohio Broadband 72337  
Initiative. 72338

**Section 38.06. GOVERNOR'S OFFICE OF APPALACHIA** 72339

The foregoing appropriation item 195-416, Governor's Office 72340  
of Appalachia, shall be used for the administrative costs of 72341  
planning and liaison activities for the Governor's Office of 72342

Appalachia. Funds not expended for planning and liaison activities 72343  
may be expended for special project grants within the Appalachian 72344  
Region. 72345

Of the foregoing appropriation item 195-416, Governor's 72346  
Office of Appalachia, up to \$250,000 each fiscal year shall be 72347  
used to match federal funds from the Appalachian Regional 72348  
Commission to provide job training to impact the Appalachian 72349  
Region. 72350

Of the foregoing appropriation item 195-416, Governor's 72351  
Office of Appalachia, up to \$4,372,324 in each fiscal year shall 72352  
be used in conjunction with other federal and state funds to 72353  
provide financial assistance to projects in Ohio's Appalachian 72354  
counties in order to further the goals of the Appalachian Regional 72355  
Commission. Such projects and project sponsors shall meet 72356  
Appalachian Regional Commission eligibility requirements. Grants 72357  
shall be administered by the Department of Development. 72358

URBAN/RURAL INITIATIVE 72359

The foregoing appropriation item 195-417, Urban/Rural 72360  
Initiative, shall be used to make grants in accordance with 72361  
sections 122.19 to 122.22 of the Ohio Revised Code. 72362

**Section 38.07. THIRD FRONTIER ACTION FUND** 72363

The foregoing appropriation item 195-422, Third Frontier 72364  
Action Fund, shall be used to make grants in accordance with 72365  
sections 184.01 and 184.02 of the Revised Code. Prior to the 72366  
release of funds from appropriation item 195-422, Third Frontier 72367  
Action Fund, each grant award shall be recommended for funding by 72368  
the Third Frontier Commission and obtain approval from the 72369  
Controlling Board. 72370

Of the foregoing appropriation item 195-422, Third Frontier 72371  
Action Fund, not more than six per cent in each fiscal year shall 72372

be used for operating expenditures in administering the program. 72373

In addition to the six per cent for operating expenditures, 72374  
an additional administrative amount, not to exceed \$1,500,000 72375  
within the biennium, shall be available for proposal evaluation, 72376  
research and analyses, and marketing efforts deemed necessary to 72377  
receive and disseminate information about science and 72378  
technology-related opportunities in the state. 72379

SCIENCE AND TECHNOLOGY COLLABORATION 72380

The Department of Development shall work in close 72381  
collaboration with the Board of Regents and the Third Frontier 72382  
Commission in relation to appropriation items and programs listed 72383  
in the following paragraph, and other technology-related 72384  
appropriations and programs in the Department of Development and 72385  
the Board of Regents as those agencies may designate, to ensure 72386  
implementation of a coherent state strategy with respect to 72387  
science and technology. 72388

Each of the following appropriations and programs: 195-401, 72389  
Thomas Edison Program; 195-408, Coal Research Development; 72390  
195-422, Third Frontier Action Fund; 195-632, Coal Research and 72391  
Development Fund; 235-454, Research Challenge; 235-510, Ohio 72392  
Supercomputer Center; 235-527, Ohio Aerospace Institute; 235-535, 72393  
Agricultural Research and Development Center; 235-553, Dayton Area 72394  
Graduate Studies Institute; 235-554, Computer Science Graduate 72395  
Education; 235-556, Ohio Academic Resources Network; and 195-405, 72396  
Biomedical Research and Technology Transfer Trust, shall be 72397  
reviewed annually by the Third Frontier Commission with respect to 72398  
its development of complementary relationships within a combined 72399  
state science and technology investment portfolio and its overall 72400  
contribution to the state's science and technology strategy, 72401  
including the adoption of appropriately consistent criteria for: 72402  
(1) the scientific merit of activities supported by the program; 72403  
(2) the relevance of the program's activities to commercial 72404

opportunities in the private sector; (3) the private sector's 72405  
involvement in a process that continually evaluates commercial 72406  
opportunities to use the work supported by the program; and (4) 72407  
the ability of the program and recipients of grant funding from 72408  
the program to engage in activities that are collaborative, 72409  
complementary, and efficient with respect to the expenditure of 72410  
state funds. 72411

All programs listed in the preceding paragraph shall provide 72412  
annual reports to the Third Frontier Commission discussing 72413  
existing, planned, or possible collaborations between programs and 72414  
recipients of grant funding related to technology, development, 72415  
commercialization, and supporting Ohio's economic development. The 72416  
annual review by the Third Frontier Commission shall be a 72417  
comprehensive review of the entire state science and technology 72418  
program portfolio rather than a review of individual programs. 72419

**Section 38.08. INTERNATIONAL TRADE** 72420

The foregoing appropriation item 195-432, International 72421  
Trade, shall be used to operate and to maintain Ohio's 72422  
out-of-state trade offices. 72423

The Director of Development may enter into contracts with 72424  
foreign nationals to staff foreign offices. Such contracts may be 72425  
paid in local currency or United States currency and shall be 72426  
exempt from the provisions of section 127.16 of the Revised Code. 72427  
The director also may establish foreign currency accounts in 72428  
accordance with section 122.05 of the Revised Code for the payment 72429  
of expenses related to the operation and maintenance of the 72430  
foreign trade offices. 72431

The foregoing appropriation item 195-432, International 72432  
Trade, shall be used to fund the International Trade Division and 72433  
to assist Ohio manufacturers and agricultural producers in 72434  
exporting to foreign countries in conjunction with the Department 72435

of Agriculture.	72436
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.	72437 72438 72439 72440
<b>Section 38.09.</b> OHIO INVESTMENT IN TRAINING PROGRAM	72441
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.	72442 72443 72444
<b>Section 38.10.</b> CDBG OPERATING MATCH	72445
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.	72446 72447 72448 72449 72450
STATE OPERATING MATCH	72451
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.	72452 72453 72454 72455
<b>Section 38.11.</b> TRAVEL AND TOURISM GRANTS	72456
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.	72457 72458 72459
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;	72460 72461 72462 72463



\$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; \$600,000 in each fiscal year shall be used for grants to the International Center for the Preservation of Wild Animals; \$120,000 in each fiscal year shall be used for the Ottawa County Visitors Bureau, the Sandusky/Erie County Visitors and Convention Bureau, and the Lorain County Visitors Bureau for collaborative efforts to promote tourism; \$40,000 in fiscal year 2004 shall be used for the United States Senior Open in Toledo; \$20,000 in fiscal year 2005 for the Professional Football Hall of Fame; and \$20,000 in fiscal year 2005 for the Cuyahoga Valley Scenic Railroad.

**Section 38.11a. SHOVEL READY SITES**

The foregoing appropriation item 195-516, Shovel Ready Sites, shall be used for the Shovel Ready Sites Program.

During fiscal year 2004, the Director of Budget and Management shall determine if General Revenue Fund revenues for that fiscal year are exceeding projected expenditures for that fiscal year by more than originally estimated. If the General Revenue Fund revenues for the fiscal year are exceeding projected expenditures by more than originally estimated for that fiscal year, then the first \$2,500,000 of the excess amount shall be appropriated from the General Revenue Fund to the Department of Development for the Shovel Ready Sites Program. The program shall be managed and administered by the Department of Development. The appropriation shall be used to leverage federal and local funds to provide grants to companies relocating or constructing new infrastructure in the state and be used for the preparation of sites for immediate construction. The Director of Development shall direct the moneys through three port authorities, two of which shall be from urban counties with populations of 500,000 or

greater and one of which shall be from a rural county. 72495

During fiscal year 2005, the Director of Budget and 72496  
Management shall determine if General Revenue Fund revenues for 72497  
that fiscal year are exceeding projected expenditures for that 72498  
fiscal year by more than originally estimated. If the General 72499  
Revenue Fund revenues for the fiscal year are exceeding projected 72500  
expenditures by more than originally estimated for that fiscal 72501  
year, then the first \$2,500,000 of the excess amount shall be 72502  
appropriated from the General Revenue Fund to the Department of 72503  
Development for the Shovel Ready Sites Program. The program shall 72504  
be managed and administered by the Department of Development. The 72505  
appropriation shall be used to leverage federal and local funds to 72506  
provide grants to companies relocating or constructing new 72507  
infrastructure in the state and be used for the preparation of 72508  
sites for immediate construction. The Director of Development 72509  
shall direct the moneys through three port authorities, two of 72510  
which shall be from urban counties with populations of 500,000 or 72511  
greater and one of which shall be from a rural county. 72512

**Section 38.12. THIRD FRONTIER RESEARCH & COMMERCIALIZATION** 72513  
GENERAL OBLIGATION DEBT SERVICE 72514

The foregoing appropriation item 195-905, Third Frontier 72515  
Research & Commercialization General Obligation Debt Service, 72516  
shall be used to pay all debt service and related financing costs 72517  
during the period from July 1, 2003, to June 30, 2005, on 72518  
obligations to be issued for research and development purposes 72519  
under Section 2p of Article VIII, Ohio Constitution, and 72520  
implementing legislation. The Office of the Sinking Fund or the 72521  
Director of Budget and Management shall effectuate the required 72522  
payments by an intrastate transfer voucher. 72523

COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE 72524

The foregoing appropriation item 195-906, Coal 72525

Research/Development General Obligation Debt Service, shall be 72526  
used to pay all debt service and related financing costs at the 72527  
times they are required to be made under sections 151.01 and 72528  
151.07 of the Revised Code during the period from July 1, 2003, to 72529  
June 30, 2005. The Commissioners of the Sinking Fund or the 72530  
Director of Budget and Management shall effectuate the required 72531  
payments by an intrastate transfer voucher. 72532

**Section 38.13. SUPPORTIVE SERVICES** 72533

The Director of Development may assess divisions of the 72534  
department for the cost of central service operations. Such an 72535  
assessment shall be based on a plan submitted to and approved by 72536  
the Office of Budget and Management by the first day of August of 72537  
each fiscal year, and contain the characteristics of 72538  
administrative ease and uniform application. 72539

A division's payments shall be credited to the Supportive 72540  
Services Fund (Fund 135) using an intrastate transfer voucher. 72541

**GENERAL REIMBURSEMENT** 72542

The foregoing appropriation item 195-636, General 72543  
Reimbursements, shall be used for conference and subscription fees 72544  
and other reimbursable costs. Revenues to the General 72545  
Reimbursement Fund (Fund 685) shall consist of fees and other 72546  
moneys charged for conferences, subscriptions, and other 72547  
administrative costs that are not central service costs. 72548

**Section 38.13a. TRAINING SERVICES** 72549

Of the foregoing appropriation item 195-605, Federal 72550  
Projects, \$400,000 in each fiscal year shall be used for grants to 72551  
the Ohio Weatherization Training Center, administered by the 72552  
Corporation for Ohio Appalachian Development, for training and 72553  
technical assistance services. 72554

**Section 38.14.** HEAP WEATHERIZATION 72555

Fifteen per cent of the federal funds received by the state 72556  
for the Home Energy Assistance Block Grant shall be deposited in 72557  
appropriation item 195-614, HEAP Weatherization (Fund 3K9), and 72558  
shall be used to provide home weatherization services in the 72559  
state. 72560

Of the foregoing appropriation item 195-614, HEAP 72561  
Weatherization, \$200,000 in each fiscal year shall be used for 72562  
grants to the Ohio Weatherization Training Center, administered by 72563  
the Corporation for Ohio Appalachian Development, for training and 72564  
technical assistance services. 72565

STATE SPECIAL PROJECTS 72566

The foregoing appropriation item 195-639, State Special 72567  
Projects, shall be used as a general account for the deposit of 72568  
private-sector funds from utility companies and other 72569  
miscellaneous state funds. Private-sector moneys shall be used to 72570  
(1) pay the expenses of verifying the income-eligibility of HEAP 72571  
applicants, (2) market economic development opportunities in the 72572  
state, and (3) leverage additional federal funds. State funds 72573  
shall be used to match federal housing grants for the homeless. 72574

**Section 38.15.** MINORITY BUSINESS ENTERPRISE LOAN 72575

All repayments from the Minority Development Financing 72576  
Advisory Board loan program and the Ohio Mini-Loan Guarantee 72577  
Program shall be deposited in the State Treasury to the credit of 72578  
the Minority Business Enterprise Loan Fund (Fund 4W1). 72579

All operating costs of administering the Minority Business 72580  
Enterprise Loan Fund shall be paid from the Minority Business 72581  
Enterprise Loan Fund (Fund 4WI). 72582

MINORITY BUSINESS BONDING FUND 72583

Notwithstanding Chapters 122., 169., and 175. of the Revised Code and other provisions of Am. Sub. H.B. 283 of the 123rd General Assembly, the Director of Development may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to \$10,000,000 in the 2003-2005 biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program pursuant to section 169.05 of the Revised Code. The transfer of any cash by the Director of Budget and Management from the Department of Commerce's Unclaimed Funds Fund (Fund 543) to the Department of Development's Minority Business Bonding Fund (Fund 449) shall occur, if requested by the Director of Development, only if such funds are needed for payment of losses arising from the Minority Business Bonding Program, and only after proceeds of the initial transfer of \$2,700,000 by the Controlling Board to the Minority Business Bonding Program has been used for that purpose. Moneys transferred by the Director of Budget and Management from the Department of Commerce for this purpose may be moneys in custodial funds held by the Treasurer of State. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195-623, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are appropriated.

**MINORITY BUSINESS BONDING PROGRAM ADMINISTRATION**

Investment earnings of the Minority Business Bonding Fund (Fund 449) shall be credited to the Minority Business Bonding Program Administration Fund (Fund 450).

**Section 38.16. ECONOMIC DEVELOPMENT FINANCING OPERATING**

The foregoing appropriation item 195-625, Economic Development Financing Operating, shall be used for the operating expenses of financial assistance programs authorized under Chapter

166. of the Revised Code and under sections 122.43 and 122.45 of 72615  
the Revised Code. 72616

VOLUME CAP ADMINISTRATION 72617

The foregoing appropriation item 195-654, Volume Cap 72618  
Administration, shall be used for expenses related to the 72619  
administration of the Volume Cap Program. Revenues received by the 72620  
Volume Cap Administration Fund (Fund 617) shall consist of 72621  
application fees, forfeited deposits, and interest earned from the 72622  
custodial account held by the Treasurer of State. 72623

UNIVERSAL SERVICE FUND 72624

The foregoing appropriation item 195-659, Universal Service, 72625  
shall be used to provide payments to regulated electric utility 72626  
companies for low-income customers enrolled in Percentage of 72627  
Income Payment Plan (PIPP) electric accounts, to fund targeted 72628  
energy efficiency and customer education services to PIPP 72629  
customers, and to cover the department's administrative costs 72630  
related to the Universal Service Fund Programs. 72631

ENERGY EFFICIENCY REVOLVING LOAN FUND 72632

The foregoing appropriation item 195-660, Energy Efficiency 72633  
Revolving Loan, shall be used to provide financial assistance to 72634  
customers for eligible energy efficiency projects for residential, 72635  
commercial and industrial business, local government, educational 72636  
institution, nonprofit, and agriculture customers, and to pay for 72637  
the program's administrative costs as provided in the Revised Code 72638  
and rules adopted by the Director of Development. 72639

**Section 38.17. FACILITIES ESTABLISHMENT FUND** 72640

The foregoing appropriation item 195-615, Facilities 72641  
Establishment (Fund 037), shall be used for the purposes of the 72642  
Facilities Establishment Fund under Chapter 166. of the Revised 72643  
Code. 72644

Notwithstanding Chapter 166. of the Revised Code, up to 72645  
\$1,800,000 in cash per fiscal year may be transferred from the 72646  
Facilities Establishment Fund (Fund 037) to the Economic 72647  
Development Financing Operating Fund (Fund 451). The transfer is 72648  
subject to Controlling Board approval pursuant to division (B) of 72649  
section 166.03 of the Revised Code. 72650

Notwithstanding Chapter 166. of the Revised Code, up to 72651  
\$20,475,000 in cash may be transferred during the biennium from 72652  
the Facilities Establishment Fund (Fund 037) to the Urban 72653  
Redevelopment Loans Fund (Fund 5D2) for the purpose of removing 72654  
barriers to urban core redevelopment. The Director of Development 72655  
shall develop program guidelines for the transfer and release of 72656  
funds, including, but not limited to, the completion of all 72657  
appropriate environmental assessments before state assistance is 72658  
committed to a project. 72659

Notwithstanding Chapter 166. of the Revised Code, up to 72660  
\$5,000,000 per fiscal year in cash may be transferred from the 72661  
Facilities Establishment Fund (Fund 037) to the Rural Industrial 72662  
Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling 72663  
Board approval pursuant to section 166.03 of the Revised Code. 72664

FAMILY FARM LOAN PROGRAM 72665

Notwithstanding Chapter 166. of the Revised Code, up to 72666  
\$1,500,000 in each fiscal year shall be transferred from moneys in 72667  
the Facilities Establishment Fund (Fund 037) to the Family Farm 72668  
Loan Guarantee Fund (Fund 5H1) in the Department of Development. 72669  
These moneys shall be used for loan guarantees. The transfer is 72670  
subject to Controlling Board approval. 72671

Financial assistance from the Family Farm Loan Guarantee Fund 72672  
(Fund 5H1) shall be repaid to Fund 5H1. This fund is established 72673  
in accordance with sections 166.031, 901.80, 901.81, 901.82, and 72674  
901.83 of the Revised Code. 72675

When the Family Farm Loan Guarantee Fund (Fund 5H1) ceases to 72676  
exist, all outstanding balances, all loan repayments, and any 72677  
other outstanding obligations shall revert to the Facilities 72678  
Establishment Fund (Fund 037). 72679

RURAL DEVELOPMENT INITIATIVE FUND 72680

(A)(1) The Rural Development Initiative Fund (Fund 5S8) shall 72681  
receive moneys from the Facilities Establishment Fund (Fund 037). 72682  
The Director of Development may make grants from the Rural 72683  
Development Initiative Fund as specified in division (A)(2) of 72684  
this section to eligible applicants in Appalachian counties and in 72685  
rural counties in the state that are designated as distressed 72686  
pursuant to section 122.25 of the Revised Code. Preference shall 72687  
be given to eligible applicants located in Appalachian counties 72688  
designated as distressed by the federal Appalachian Regional 72689  
Commission. The Rural Development Initiative Fund (Fund 5S8) shall 72690  
cease to exist after June 30, 2007. All moneys remaining in the 72691  
Fund after that date shall revert to the Facilities Establishment 72692  
Fund (Fund 037). 72693

(2) The Director of Development shall make grants from the 72694  
Rural Development Initiative Fund (Fund 5S8) only to eligible 72695  
applicants who also qualify for and receive funding under the 72696  
Rural Industrial Park Loan Program as specified in sections 122.23 72697  
to 122.27 of the Revised Code. Eligible applicants shall use the 72698  
grants for the purposes specified in section 122.24 of the Revised 72699  
Code. All projects supported by grants from the fund are subject 72700  
to Chapter 4115. of the Revised Code as specified in division (E) 72701  
of section 166.02 of the Revised Code. The Director shall develop 72702  
program guidelines for the transfer and release of funds. The 72703  
release of grant moneys to an eligible applicant is subject to 72704  
Controlling Board approval. 72705

(B) Notwithstanding Chapter 166. of the Revised Code, the 72706



Director of Budget and Management may transfer up to \$5,000,000 72707  
per fiscal year in cash on an as needed basis at the request of 72708  
the Director of Development from the Facilities Establishment Fund 72709  
(Fund 037) to the Rural Development Initiative Fund (Fund 5S8). 72710  
The transfer is subject to Controlling Board approval pursuant to 72711  
section 166.03 of the Revised Code. 72712

CAPITAL ACCESS LOAN PROGRAM 72713

The foregoing appropriation item 195-628, Capital Access Loan 72714  
Program, shall be used for operating, program, and administrative 72715  
expenses of the program. Funds of the Capital Access Loan Program 72716  
shall be used to assist participating financial institutions in 72717  
making program loans to eligible businesses that face barriers in 72718  
accessing working capital and obtaining fixed asset financing. 72719

Notwithstanding Chapter 166. of the Revised Code, the 72720  
Director of Budget and Management may transfer up to \$3,000,000 72721  
per fiscal year in cash on an as needed basis at the request of 72722  
the Director of Development from the Facilities Establishment Fund 72723  
(Fund 037) to the Capital Access Loan Program Fund (Fund 5S9). The 72724  
transfer is subject to Controlling Board approval pursuant to 72725  
section 166.03 of the Revised Code. 72726

**Section 38.18.** CLEAN OHIO OPERATING EXPENSES 72727

The foregoing appropriation item 195-663, Clean Ohio 72728  
Operating, shall be used by the Department of Development in 72729  
administering sections 122.65 to 122.658 of the Revised Code. 72730

**Section 39.** OBD OHIO BOARD OF DIETETICS 72731

General Services Fund Group 72732  
4K9 860-609 Operating Expenses \$ 334,917 \$ 329,687 72733  
TOTAL GSF General Services Fund 72734  
Group \$ 334,917 \$ 329,687 72735  
TOTAL ALL BUDGET FUND GROUPS \$ 334,917 \$ 329,687 72736

<b>Section 40. EDU DEPARTMENT OF EDUCATION</b>				72738
General Revenue Fund				72739
GRF 200-100	Personal Services	\$ 11,110,190	\$ 11,332,393	72740
GRF 200-320	Maintenance and Equipment	\$ 5,066,249	\$ 5,066,249	72741
GRF 200-408	Public Preschool	\$ 19,018,551	\$ 19,018,551	72742
GRF 200-410	Professional Development	\$ 27,840,073	\$ 28,790,073	72743
GRF 200-411	Family and Children First	\$ 3,324,750	\$ 3,324,750	72744
GRF 200-416	Career-Technical Education Match	\$ 2,322,195	\$ 2,322,195	72745
GRF 200-420	Technical Systems Development	\$ 5,703,750	\$ 5,703,750	72746
GRF 200-421	Alternative Education Programs	\$ 16,135,547	\$ 16,135,547	72747
GRF 200-422	School Management Assistance	\$ 1,778,000	\$ 1,778,000	72748
GRF 200-424	Policy Analysis	\$ 592,220	\$ 592,220	72749
GRF 200-425	Tech Prep Consortia Support	\$ 2,133,213	\$ 2,133,213	72750
GRF 200-426	Ohio Educational Computer Network	\$ 34,331,741	\$ 34,331,741	72751
GRF 200-427	Academic Standards	\$ 9,000,592	\$ 9,000,592	72752
GRF 200-431	School Improvement Initiatives	\$ 10,805,625	\$ 10,805,625	72753
GRF 200-432	School Conflict Management	\$ 583,010	\$ 583,010	72754
GRF 200-433	Reading/Writing/Math Improvement	\$ 20,488,264	\$ 20,488,264	72755
GRF 200-437	Student Assessment	\$ 40,853,391	\$ 45,853,391	72756
GRF 200-439	Accountability/Report	\$ 4,087,500	\$ 4,087,500	72757

		Cards				
GRF	200-441	American Sign Language	\$	207,717	\$	207,717 72758
GRF	200-442	Child Care Licensing	\$	1,385,633	\$	1,385,633 72759
GRF	200-445	OhioReads	\$	4,500,000	\$	4,500,000 72760
		Admin/Volunteer Support				
GRF	200-446	Education Management	\$	18,678,969	\$	18,678,969 72761
		Information System				
GRF	200-447	GED Testing/Adult High School	\$	1,829,106	\$	1,829,106 72762
GRF	200-448	Educator Preparation	\$	24,375	\$	24,375 72763
GRF	200-449	Head Start/Head Start Plus Start Up	\$	11,000,000	\$	5,000,000 72764
GRF	200-452	Teaching Success	\$	1,650,000	\$	1,650,000 72765
		Commission Initiatives				
GRF	200-455	Community Schools	\$	4,231,842	\$	4,231,842 72766
GRF	200-500	School Finance Equity	\$	13,888,641	\$	7,671,853 72767
GRF	200-501	Base Cost Funding	\$	4,437,361,256	\$	4,475,529,879 72768
GRF	200-502	Pupil Transportation	\$	388,939,229	\$	397,960,398 72769
GRF	200-503	Bus Purchase Allowance	\$	34,399,921	\$	34,399,921 72770
GRF	200-505	School Lunch Match	\$	8,998,025	\$	8,998,025 72771
GRF	200-509	Adult Literacy	\$	8,774,250	\$	8,774,250 72772
		Education				
GRF	200-511	Auxiliary Services	\$	127,903,356	\$	127,903,356 72773
GRF	200-513	Student Intervention	\$	35,040,815	\$	35,040,815 72774
		Services				
GRF	200-514	Postsecondary Adult Career-Technical Education	\$	19,919,464	\$	19,919,464 72775
GRF	200-520	Disadvantaged Pupil Impact Aid	\$	367,266,738	\$	367,266,738 72776
GRF	200-521	Gifted Pupil Program	\$	48,201,031	\$	48,201,031 72777
GRF	200-525	Parity Aid	\$	333,890,279	\$	448,820,387 72778

GRF 200-532	Nonpublic	\$	55,803,103	\$	55,803,103	72779
	Administrative Cost					
	Reimbursement					
GRF 200-540	Special Education	\$	137,414,484	\$	139,736,046	72780
	Enhancements					
GRF 200-545	Career-Technical	\$	14,572,907	\$	14,572,907	72781
	Education Enhancements					
GRF 200-546	Charge-Off Supplement	\$	45,888,802	\$	45,888,802	72782
GRF 200-558	Emergency Loan	\$	3,022,500	\$	2,300,000	72783
	Interest Subsidy					
GRF 200-566	OhioReads Grants	\$	17,125,223	\$	17,167,728	72784
GRF 200-578	Safe and Supportive	\$	3,576,348	\$	3,576,348	72785
	Schools					
GRF 200-901	Property Tax	\$	783,350,000	\$	822,360,000	72786
	Allocation - Education					
GRF 200-906	Tangible Tax Exemption	\$	70,710,000	\$	67,710,000	72787
	- Education					
TOTAL GRF	General Revenue Fund	\$	7,214,728,875	\$	7,408,455,757	72788
	General Services Fund Group					72789
138 200-606	Computer Services	\$	7,404,690	\$	7,635,949	72790
4D1 200-602	Ohio	\$	347,000	\$	347,000	72791
	Prevention/Education					
	Resource Center					
4L2 200-681	Teacher Certification	\$	5,038,017	\$	5,236,517	72792
	and Licensure					
452 200-638	Miscellaneous Revenue	\$	500,000	\$	500,000	72793
5B1 200-651	Child Nutrition	\$	800,000	\$	800,000	72794
	Services					
5H3 200-687	School District	\$	18,000,000	\$	18,000,000	72795
	Solvency Assistance					
596 200-656	Ohio Career	\$	516,694	\$	529,761	72796
	Information System					
TOTAL GSF	General Services					72797

Fund Group		\$	32,606,401	\$	33,049,227	72798	
Federal Special Revenue Fund Group						72799	
3C5	200-661	Early Childhood Education	\$	21,508,746	\$	21,508,746	72800
3D1	200-664	Drug Free Schools	\$	13,169,757	\$	13,347,966	72801
3D2	200-667	Honors Scholarship Program	\$	1,786,500	\$	1,786,500	72802
3H9	200-605	Head Start Collaboration Project	\$	275,000	\$	275,000	72803
3L6	200-617	Federal School Lunch	\$	185,948,186	\$	191,898,528	72804
3L7	200-618	Federal School Breakfast	\$	48,227,431	\$	49,524,254	72805
3L8	200-619	Child/Adult Food Programs	\$	63,577,244	\$	65,293,830	72806
3L9	200-621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701	72807
3M0	200-623	ESEA Title 1A	\$	356,458,504	\$	384,975,184	72808
3M1	200-678	Innovative Education	\$	15,041,997	\$	16,094,937	72809
3M2	200-680	Ind W/Disab Education Act	\$	288,468,284	\$	331,392,575	72810
3S2	200-641	Education Technology	\$	19,682,057	\$	20,469,339	72811
3S6	200-698	Dispute Resolution-Federal	\$	140,000	\$	140,000	72812
3T4	200-613	Public Charter Schools	\$	23,287,500	\$	26,187,113	72813
3Y2	200-688	21st Century Community Learning Centers	\$	17,138,239	\$	18,500,000	72814
3Y4	200-632	Reading First	\$	29,881,256	\$	33,168,194	72815
3Y6	200-635	Improving Teacher Quality	\$	103,686,420	\$	104,100,000	72816
3Y7	200-689	English Language Acquisition	\$	4,872,334	\$	5,505,737	72817
3Z2	200-690	State Assessments	\$	11,894,315	\$	12,489,031	72818
309	200-601	Educationally	\$	22,148,769	\$	22,899,001	72819

		Disadvantaged					
366	200-604	Adult Basic Education	\$	21,369,906	\$	22,223,820	72820
367	200-607	School Food Services	\$	10,767,759	\$	11,144,631	72821
368	200-614	Veterans' Training	\$	626,630	\$	655,587	72822
369	200-616	Career-Tech Education	\$	8,165,672	\$	8,165,672	72823
		Federal Enhancement					
370	200-624	Education of	\$	1,933,910	\$	1,933,910	72824
		Exceptional Children					
374	200-647	Troops to Teachers	\$	2,618,076	\$	2,622,370	72825
		TOTAL FED Federal Special					72826
		Revenue Fund Group	\$	1,320,704,193	\$	1,414,331,626	72827
		State Special Revenue Fund Group					72828
4R7	200-695	Indirect Cost Recovery	\$	5,002,500	\$	5,250,400	72829
4V7	200-633	Interagency Support	\$	800,000	\$	800,000	72830
454	200-610	Guidance and Testing	\$	956,761	\$	956,761	72831
455	200-608	Commodity Foods	\$	11,308,000	\$	11,624,624	72832
5U2	200-685	National Education	\$	200,000	\$	200,000	72833
		Statistics					
5W2	200-663	Head Start Plus/Head	\$	57,170,000	\$	110,184,000	72834
		Start					
5X8	200-453	Jobs for Ohio	\$	1,750,000	\$	1,750,000	72835
		Graduates Program					
598	200-659	Auxiliary Services	\$	1,328,910	\$	1,328,910	72836
		Reimbursement					
620	200-615	Educational Grants	\$	1,000,000	\$	1,000,000	72837
		TOTAL SSR State Special Revenue					72838
		Fund Group	\$	79,516,171	\$	133,094,695	72839
		Lottery Profits Education Fund Group					72840
017	200-612	Base Cost Funding	\$	606,123,500	\$	606,195,300	72841
017	200-682	Lease Rental Payment	\$	31,776,500	\$	31,704,700	72842
		Reimbursement					
		TOTAL LPE Lottery Profits					72843

Education Fund Group	\$	637,900,000	\$	637,900,000	72844
Revenue Distribution Fund Group					72845
053 200-900 School District	\$	115,911,593	\$	115,911,593	72846
Property Tax					
Replacement					
TOTAL RDF Revenue Distribution					72847
Fund Group	\$	115,911,593	\$	115,911,593	72848
TOTAL ALL BUDGET FUND GROUPS	\$	9,401,367,233	\$	9,742,742,898	72849

**Section 40.01. MAINTENANCE AND EQUIPMENT** 72851

Of the foregoing appropriation item 200-320, Maintenance and 72852  
Equipment, up to \$25,000 may be expended in each fiscal year for 72853  
State Board of Education out-of-state travel. 72854

**Section 40.02. PUBLIC PRESCHOOL** 72855

The Department of Education shall distribute the foregoing 72856  
appropriation item 200-408, Public Preschool, to pay the costs of 72857  
comprehensive preschool programs. As used in this section, "school 72858  
district" means a city, local, exempted village, or joint 72859  
vocational school district, or an educational service center. 72860

(A) In each fiscal year, up to two per cent of the total 72861  
appropriation may be used by the department for program support 72862  
and technical assistance; developing program capacity; and 72863  
assisting programs with facilities planning, construction, 72864  
renovation, or lease agreements in conjunction with the Community 72865  
Development Finance Fund (CDFF). The Department shall distribute 72866  
the remainder of the appropriation in each fiscal year to serve 72867  
children from families earning not more than 185 per cent of the 72868  
federal poverty guidelines. 72869

(B) The department shall provide an annual report to the 72870  
Governor, the Speaker of the House of Representatives, the 72871  
President of the Senate, the State Board of Education, Head Start 72872

agencies, and other interested parties regarding the Public 72873  
Preschool Program and performance indicators, as outlined by the 72874  
Department. 72875

(C) For purposes of this section, "eligible child" means a 72876  
child who is at least three years of age, is not of the age to be 72877  
eligible for kindergarten, and whose family earns not more than 72878  
185 per cent of the federal poverty guidelines. 72879

(D) After setting aside the amounts to make payments due from 72880  
the previous fiscal year, in fiscal year 2004 and fiscal year 72881  
2005, the Department shall distribute funds first to recipients of 72882  
funds under the program in the previous fiscal year and the 72883  
balance to new recipients. Awards under this section shall be 72884  
distributed on a per-pupil basis, which the Department may adjust 72885  
so that the per-pupil amount multiplied by the number of eligible 72886  
children enrolled and receiving services, as defined by the 72887  
Department, reported on the first day of December or the first 72888  
business day following that date equals the amount allocated under 72889  
division (A) of this section. The Department may increase the 72890  
per-pupil amount by a reasonable percentage for inflation, to be 72891  
determined by the Department. 72892

The Department may reallocate unobligated or unspent money to 72893  
participating school districts for purposes of program expansion, 72894  
improvement, or special projects to promote quality and 72895  
innovation. 72896

(E) Costs for developing and administering a preschool 72897  
program may not exceed fifteen per cent of the total approved 72898  
costs of the program. 72899

All recipients of funds shall maintain such fiscal control 72900  
and accounting procedures as may be necessary to ensure the 72901  
disbursement of, and accounting for, these funds. The control of 72902  
funds provided in this program, and title to property obtained 72903



therefrom, shall be under the authority of the approved recipient 72904  
for purposes provided in the program unless, as described in 72905  
division (J) of this section, a preschool program waives its right 72906  
for funding or a program's funding is eliminated or reduced due to 72907  
its inability to meet financial or program performance standards. 72908  
The approved recipient shall administer and use such property and 72909  
funds for the purposes specified. 72910

(F) The Department shall prescribe target levels for critical 72911  
performance indicators for the purpose of assessing public 72912  
preschool programs. On-site reviews and follow-up visits shall be 72913  
based on progress in meeting the prescribed target levels. 72914

(G) The Department may examine a recipient's financial and 72915  
program records. If the financial practices of the program are not 72916  
in accordance with standard accounting principles or do not meet 72917  
financial standards outlined under division (E) of this section, 72918  
or if the program fails to substantially meet the Head Start 72919  
performance standards or exhibits below average performance as 72920  
measured against the performance indicators outlined in division 72921  
(F) of this section, the preschool program shall propose and 72922  
implement a corrective action plan that has been approved by the 72923  
Department. The approved corrective action plan shall be signed by 72924  
the school district board of education and the appropriate grantee 72925  
official. The corrective action plan shall include a schedule for 72926  
monitoring by the Department. Such monitoring may include monthly 72927  
reports, inspections, a timeline for correction of deficiencies, 72928  
and technical assistance to be provided by the Department or 72929  
obtained by the public preschool program. The Department may 72930  
withhold funding pending corrective action. If a public preschool 72931  
program fails to satisfactorily complete a corrective action plan, 72932  
the Department may either deny expansion funding to the program or 72933  
withdraw all or part of the public preschool funding from the 72934  
agency and establish a new state-funded agency through a 72935

competitive bidding process established by the Department. 72936

(H) The department shall require public preschool programs to 72937  
document child progress, using research-based indicators as 72938  
prescribed by the department, and report results annually. The 72939  
department shall determine the dates for documenting and 72940  
reporting. 72941

(I) Each school district shall develop a sliding fee scale 72942  
based on family incomes in the district and shall charge families 72943  
who earn more than the federal poverty guidelines for preschool. 72944

(J) If a public preschool program voluntarily waives its 72945  
right for funding, or has its funding eliminated for not meeting 72946  
financial standards or program performance standards, the grantee 72947  
and delegate shall transfer control of title to property, 72948  
equipment, and remaining supplies obtained through the program to 72949  
designated grantees and return any unexpended funds to the 72950  
Department along with any reports prescribed by the Department. 72951  
The funding made available from a program that waives its right 72952  
for funding or has its funding eliminated or reduced may be used 72953  
by the Department for new grant awards or expansion grants. The 72954  
Department may award new grants or expansion grants to eligible 72955  
providers who apply. The eligible providers who apply must do so 72956  
in accordance with the competitive bidding process established by 72957  
the Department. 72958

**Section 40.03. PROFESSIONAL DEVELOPMENT** 72959

Of the foregoing appropriation item 200-410, Professional 72960  
Development, \$5,200,000 in fiscal year 2004 shall be used by the 72961  
Department of Education to support a statewide comprehensive 72962  
system of regional professional development centers that support 72963  
local educators' ability to foster academic achievement in the 72964  
students they serve. Of the foregoing appropriation item 200-410, 72965  
Professional Development, \$5,200,000 in fiscal year 2005 shall be 72966

used by the regional education delivery system. Before releasing 72967  
these funds in fiscal year 2005, the Department of Education shall 72968  
submit a spending plan to the Controlling Board. The release of 72969  
the funds is contingent on Controlling Board approval of the 72970  
spending plan. Both the regional professional development centers 72971  
in fiscal year 2004 and the regional education delivery system in 72972  
fiscal year 2005 shall include training that assists educators, 72973  
school leadership, and technical assistance providers in 72974  
understanding and implementing standards-based education, data 72975  
analysis, and development of assessment systems for quality 72976  
instruction. 72977

Of the foregoing appropriation item 200-410, Professional 72978  
Development, \$7,079,625 in fiscal year 2004 and \$8,004,625 in 72979  
fiscal year 2005 shall be used by the Department of Education to 72980  
provide grants to pay \$2,000 of the application fee in order to 72981  
assist teachers from public and chartered nonpublic schools 72982  
applying for the first time to the National Board for Professional 72983  
Teaching Standards for professional teaching certificates or 72984  
licenses that the board offers. This set aside shall also be used 72985  
to recognize and reward teachers who become certified by the 72986  
National Board for Professional Teaching Standards pursuant to 72987  
section 3319.55 of the Revised Code. Up to \$300,000 in each fiscal 72988  
year of this set aside may be used by the Department to pay for 72989  
costs associated with activities to support candidates through the 72990  
application and certification process. 72991

These moneys shall be used to pay up to the first 500 72992  
applications in fiscal year 2004 and the first 400 applications in 72993  
fiscal year 2005 received by the Department. Each prospective 72994  
applicant for certification or licensure shall submit an 72995  
application to the Department of Education. When the Department 72996  
has collected a group of applications, but not later than 30 days 72997  
after receipt of the first application in a group, it shall send 72998

the applications to the National Board for Professional Teaching Standards along with a check to cover the remaining cost of the application fee for all applicants in that group.

Of the foregoing appropriation item 200-410, Professional Development, up to \$13,442,358 in each fiscal year shall be allocated for entry year programs. These funds shall be used to support mentoring services and performance assessments of beginning teachers in school districts.

Of the foregoing appropriation item 200-410, Professional Development, up to \$188,090 in each fiscal year shall be used to provide technical assistance and grants for districts to develop local knowledge/skills-based compensation systems. Each district receiving grants shall issue an annual report to the Department of Education detailing the use of the funds and the impact of the system developed by the district.

Of the foregoing appropriation item 200-410, Professional Development, up to \$670,000 in each fiscal year shall be used for training and professional development of school administrators, school treasurers, and school business officials.

Of the foregoing appropriation item 200-410, Professional Development, \$144,000 in each fiscal year shall be used by the Department of Education to develop a supply and demand report that describes the availability of quality educators and critical educator shortage areas in Ohio.

Of the foregoing appropriation item 200-410, Professional Development, \$1,056,000 in each fiscal year shall be used for educator recruitment programs targeting special need areas, including recruiting highly qualified minority candidates into teaching, recruiting prospective mathematics and science teachers, and targeting other areas of special need.

CAREER-TECHNICAL EDUCATION MATCH

The foregoing appropriation item 200-416, Career-Technical Education Match, shall be used by the Department of Education to provide vocational administration matching funds pursuant to 20 U.S.C. 2311.

**Section 40.04. TECHNICAL SYSTEMS DEVELOPMENT** 73034

The foregoing appropriation item 200-420, Technical Systems Development, shall be used to support the development and implementation of information technology solutions designed to improve the performance and customer service of the Department of Education. Funds may be used for personnel, maintenance, and equipment costs related to the development and implementation of these technical system projects. Implementation of these systems shall allow the Department to provide greater levels of assistance to school districts and to provide more timely information to the public, including school districts, administrators, and legislators.

**ALTERNATIVE EDUCATION PROGRAMS** 73046

There is hereby created the Alternative Education Advisory Council, which shall consist of one representative from each of the following agencies: the Ohio Department of Education; the Department of Youth Services; the Ohio Department of Alcohol and Drug Addiction Services; the Department of Mental Health; the Office of the Governor or, at the Governor's discretion, the Office of the Lieutenant Governor; the Office of the Attorney General; and the Office of the Auditor of State.

Of the foregoing appropriation item 200-421, Alternative Education Programs, not less than \$7,529,274 in each fiscal year shall be used for the renewal of successful implementation grants and for competitive matching grants to the 21 urban school districts as defined in division (0) of section 3317.02 of the

Revised Code as it existed prior to July 1, 1998, and not less 73060  
than \$7,494,820 in each fiscal year shall be used for the renewal 73061  
of successful implementation of grants and for competitive 73062  
matching grants to rural and suburban school districts for 73063  
alternative educational programs for existing and new at-risk and 73064  
delinquent youth. Programs shall be focused on youth in one or 73065  
more of the following categories: those who have been expelled or 73066  
suspended, those who have dropped out of school or who are at risk 73067  
of dropping out of school, those who are habitually truant or 73068  
disruptive, or those on probation or on parole from a Department 73069  
of Youth Services facility. Grants shall be awarded according to 73070  
the criteria established by the Alternative Education Advisory 73071  
Council in 1999. Grants shall be awarded only to programs where 73072  
the grant would not serve as the program's primary source of 73073  
funding. These grants shall be administered by the Department of 73074  
Education. 73075

The Department of Education may waive compliance with any 73076  
minimum education standard established under section 3301.07 of 73077  
the Revised Code for any alternative school that receives a grant 73078  
under this section on the grounds that the waiver will enable the 73079  
program to more effectively educate students enrolled in the 73080  
alternative school. 73081

Of the foregoing appropriation item 200-421, Alternative 73082  
Education Programs, \$75,000 in each fiscal year shall be used to 73083  
support the Toledo Tech Academy. 73084

Of the foregoing appropriation item 200-421, Alternative 73085  
Education Programs, up to \$449,235 in each fiscal year may be used 73086  
for program administration, monitoring, technical assistance, 73087  
support, research, and evaluation. Any unexpended balance may be 73088  
used to provide additional matching grants to urban, suburban, or 73089  
rural school districts as outlined above. 73090

Of the foregoing appropriation item 200-421, Alternative 73091

Education Programs, \$287,218 in each fiscal year shall be used to 73092  
contract with the Center for Learning Excellence at The Ohio State 73093  
University to provide technical support for the project and the 73094  
completion of formative and summative evaluation of the grants. 73095

Of the foregoing appropriation item 200-421, Alternative 73096  
Education Programs, \$300,000 in each fiscal year shall be used to 73097  
support Amer-I-Can. Of this set-aside, no funds shall be disbursed 73098  
without approval of the Controlling Board. Amer-I-Can programs 73099  
shall submit to the Controlling Board a biennial spending plan 73100  
that delineates how these funds will be spent. Amer-I-Can programs 73101  
also shall demonstrate to the Controlling Board that they have 73102  
hired an independent evaluator and have selected valid and 73103  
reliable instruments to assess pre and post changes in student 73104  
behavior. 73105

SCHOOL MANAGEMENT ASSISTANCE 73106

Of the foregoing appropriation item 200-422, School 73107  
Management Assistance, \$351,000 in each fiscal year shall be used 73108  
by the Auditor of State for expenses incurred in the Auditor of 73109  
State's role relating to fiscal caution activities as defined in 73110  
Chapter 3316. of the Revised Code. Expenses include duties related 73111  
to the completion of performance audits for school districts that 73112  
the Superintendent of Public Instruction determines are employing 73113  
fiscal practices or experiencing budgetary conditions that could 73114  
produce a state of fiscal watch or fiscal emergency. 73115

The remainder of foregoing appropriation item 200-422, School 73116  
Management Assistance, shall be used by the Department of 73117  
Education to provide fiscal technical assistance and inservice 73118  
education for school district management personnel and to 73119  
administer, monitor, and implement the fiscal watch and fiscal 73120  
emergency provisions under Chapter 3316. of the Revised Code. 73121

POLICY ANALYSIS 73122

The foregoing appropriation item 200-424, Policy Analysis, 73123  
shall be used by the Department of Education to support a system 73124  
of administrative, statistical, and legislative education 73125  
information to be used for policy analysis. Staff supported by 73126  
this appropriation shall administer the development of reports, 73127  
analyses, and briefings to inform education policymakers of 73128  
current trends in education practice, efficient and effective use 73129  
of resources, and evaluation of programs to improve education 73130  
results. The database shall be kept current at all times. These 73131  
research efforts shall be used to supply information and analysis 73132  
of data to the General Assembly and other state policymakers, 73133  
including the Office of Budget and Management and the Legislative 73134  
Service Commission. 73135

The Department of Education may use funding from this 73136  
appropriation item to purchase or contract for the development of 73137  
software systems or contract for policy studies that will assist 73138  
in the provision and analysis of policy-related information. 73139  
Funding from this appropriation item also may be used to monitor 73140  
and enhance quality assurance for research-based policy analysis 73141  
and program evaluation to enhance the effective use of education 73142  
information to inform education policymakers. 73143

**TECH PREP CONSORTIA SUPPORT** 73144

The foregoing appropriation item 200-425, Tech Prep Consortia 73145  
Support, shall be used by the Department of Education to support 73146  
state-level activities designed to support, promote, and expand 73147  
tech prep programs. Use of these funds shall include, but not be 73148  
limited to, administration of grants, program evaluation, 73149  
professional development, curriculum development, assessment 73150  
development, program promotion, communications, and statewide 73151  
coordination of tech prep consortia. 73152

**OHIO EDUCATIONAL COMPUTER NETWORK** 73153



The foregoing appropriation item 200-426, Ohio Educational Computer Network, shall be used by the Department of Education to maintain a system of information technology throughout Ohio and to provide technical assistance for such a system in support of the State Education Technology Plan pursuant to section 3301.07 of the Revised Code.

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to \$18,592,763 in each fiscal year shall be used by the Department of Education to support connection of all public school buildings to the state's education network, to each other, and to the Internet. In each fiscal year the Department of Education shall use these funds to assist data acquisition sites or school districts with the operational costs associated with this connectivity. The Department of Education shall develop a formula and guidelines for the distribution of these funds to the data acquisition sites or individual school districts. As used in this section, "public school building" means a school building of any city, local, exempted village, or joint vocational school district, or any community school established under Chapter 3314. of the Revised Code, or any educational service center building used for instructional purposes, or the Ohio School for the Deaf and the Ohio School for the Blind, or high schools chartered by the Ohio Department of Youth Services and high schools operated by Ohio Department of Rehabilitation and Corrections' Ohio Central School System.

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to \$1,884,355 in each fiscal year shall be used for the Union Catalog and InfOhio Network.

The Department of Education shall use up to \$3,412,500 in each fiscal year to assist designated data acquisition sites with operational costs associated with the increased use of the state's education network by chartered nonpublic schools. The Department

of Education shall use the same per building amount as used to 73186  
provide connectivity subsidy funds to public school buildings. The 73187  
funds shall be distributed to designated data acquisition sites no 73188  
later than the first day of November of every school year that the 73189  
General Assembly appropriates funds for the program. 73190

The remainder of appropriation item 200-426, Ohio Educational 73191  
Computer Network, shall be used to support development, 73192  
maintenance, and operation of a network of uniform and compatible 73193  
computer-based information and instructional systems. The 73194  
technical assistance shall include, but not be restricted to, 73195  
development and maintenance of adequate computer software systems 73196  
to support network activities. Program funds may be used, through 73197  
a formula and guidelines devised by the department, to subsidize 73198  
the activities of designated data acquisition sites, as defined by 73199  
State Board of Education rules, to provide school districts and 73200  
chartered nonpublic schools with computer-based student and 73201  
teacher instructional and administrative information services, 73202  
including approved computerized financial accounting, and to 73203  
ensure the effective operation of local automated administrative 73204  
and instructional systems. To broaden the scope of the use of 73205  
technology for education, the Department may use up to \$223,762 in 73206  
each fiscal year to coordinate the activities of the computer 73207  
network with other agencies funded by the department or the state. 73208  
In order to improve the efficiency of network activities, the 73209  
department and data acquisition sites may jointly purchase 73210  
equipment, materials, and services from funds provided under this 73211  
appropriation for use by the network and, when considered 73212  
practical by the department, may utilize the services of 73213  
appropriate state purchasing agencies. 73214

ACADEMIC STANDARDS 73215

Of the foregoing appropriation item 200-427, Academic 73216  
Standards, up to \$731,250 in each fiscal year shall be used to 73217

provide funds to school districts that have one or more teachers 73218  
participating in the teachers-on-loan program. 73219

The remainder of appropriation item 200-427, Academic 73220  
Standards, shall be used by the Department of Education to develop 73221  
and communicate to school districts academic content standards and 73222  
curriculum models. The Department of Education shall communicate 73223  
these standards and curricula to school districts primarily 73224  
through Internet website postings and electronic mail. 73225

**Section 40.05. SCHOOL IMPROVEMENT INITIATIVES** 73226

Of the foregoing appropriation item 200-431, School 73227  
Improvement Initiatives, \$10,505,625 in each fiscal year shall be 73228  
used to provide technical assistance to school districts that are 73229  
declared to be in a state of academic watch or academic emergency 73230  
under section 3302.03 of the Revised Code to provide support to 73231  
districts in the development and implementation of their 73232  
continuous improvement plans as required in section 3302.04 of the 73233  
Revised Code and to provide technical assistance and support in 73234  
accordance with Title I of the "No Child Left Behind Act of 2001," 73235  
115 Stat. 1425, 20 U.S.C. 6317. 73236

Of the foregoing appropriation item 200-431, School 73237  
Improvement Initiatives, up to \$250,000 in each fiscal year shall 73238  
be used to reduce the dropout rate by addressing the academic and 73239  
social problems of inner-city students through Project GRAD. 73240

Of the foregoing appropriation item 200-431, School 73241  
Improvement Initiatives, \$50,000 in each fiscal year shall be used 73242  
to support LEAF. 73243

**SCHOOL CONFLICT MANAGEMENT** 73244

The foregoing appropriation item 200-432, School Conflict 73245  
Management, shall be used by the Department of Education for the 73246  
purpose of providing dispute resolution and conflict management 73247

training, consultation, and materials for school districts, and 73248  
for the purpose of providing competitive school conflict 73249  
management grants to school districts. 73250

READING/WRITING/MATH IMPROVEMENT 73251

Of the foregoing appropriation item 200-433, Reading/Writing 73252  
Improvement, up to \$12,675,000 in each fiscal year shall be used 73253  
for professional development in literacy for classroom teachers, 73254  
administrators, and literacy specialists, and to provide intensive 73255  
summer training for mathematics teachers. 73256

Of the foregoing appropriation item 200-433, Reading/Writing 73257  
Improvement, \$250,000 in each fiscal year shall be used to 73258  
continue the Waterford Early Reading Program. 73259

Of the foregoing appropriation item 200-433, Reading/Writing 73260  
Improvement, up to \$1,000,000 in each fiscal year shall be used by 73261  
the Department of Education to fund the Reading Recovery Training 73262  
Network, to cover the cost of release time for the teacher 73263  
trainers, and to provide grants to districts to implement other 73264  
reading improvement programs on a pilot basis. Funds from this 73265  
appropriation item also may be used to conduct evaluations of the 73266  
impact and effectiveness of Reading Recovery and other reading 73267  
improvement programs. 73268

The remainder of appropriation item 200-433, Reading/Writing 73269  
Improvement, shall be used to support standards-based classroom 73270  
reading and writing instruction and reading intervention and the 73271  
design/development of standards-based literacy curriculum 73272  
materials; to support literacy professional development 73273  
partnerships between the Department of Education, higher education 73274  
institutions, the literacy specialists project, the Ohio 73275  
principals' literacy network, regional literacy teams, literacy 73276  
networks, and school districts. 73277

STUDENT ASSESSMENT 73278

The foregoing appropriation item 200-437, Student Assessment, 73279  
shall be used to develop, field test, print, distribute, score, 73280  
report results, and support other associated costs for the tests 73281  
required under sections 3301.0710 and 3301.0711 of the Revised 73282  
Code and for similar purposes as required by section 3301.27 of 73283  
the Revised Code. 73284

ACCOUNTABILITY/REPORT CARDS 73285

The foregoing appropriation item 200-439, 73286  
Accountability/Report Cards, shall be used for the development of 73287  
an accountability system that includes the preparation and 73288  
distribution of school report cards pursuant to section 3302.03 of 73289  
the Revised Code. 73290

AMERICAN SIGN LANGUAGE 73291

Of the foregoing appropriation item 200-441, American Sign 73292  
Language, up to \$136,943 in each fiscal year shall be used to 73293  
implement pilot projects for the integration of American Sign 73294  
Language deaf language into the kindergarten through twelfth-grade 73295  
curriculum. 73296

The remainder of the appropriation shall be used by the 73297  
Department of Education to provide supervision and consultation to 73298  
school districts in dealing with parents of children who are deaf 73299  
or hard of hearing, in integrating American Sign Language as a 73300  
foreign language, and in obtaining interpreters and improving 73301  
their skills. 73302

CHILD CARE LICENSING 73303

The foregoing appropriation item 200-442, Child Care 73304  
Licensing, shall be used by the Department of Education to license 73305  
and to inspect preschool and school-age child care programs in 73306  
accordance with sections 3301.52 to 3301.59 of the Revised Code. 73307

OHIOREADS ADMIN/VOLUNTEER SUPPORT 73308

The foregoing appropriation item 200-445, OhioReads 73309  
Admin/Volunteer Support, may be allocated by the OhioReads Office 73310  
in the Department of Education at the direction of the OhioReads 73311  
Council for volunteer coordinators in public school buildings, to 73312  
educational service centers for costs associated with volunteer 73313  
coordination, for background checks for volunteers, to evaluate 73314  
the OhioReads Program, and for operating expenses associated with 73315  
administering the program. 73316

**Section 40.06. EDUCATION MANAGEMENT INFORMATION SYSTEM** 73317

The foregoing appropriation item 200-446, Education 73318  
Management Information System, shall be used by the Department of 73319  
Education to improve the Education Management Information System 73320  
(EMIS). 73321

Of the foregoing appropriation item 200-446, Education 73322  
Management Information System, up to \$1,295,857 in each fiscal 73323  
year shall be distributed to designated data acquisition sites for 73324  
costs relating to processing, storing, and transferring data for 73325  
the effective operation of the EMIS. These costs may include, but 73326  
are not limited to, personnel, hardware, software development, 73327  
communications connectivity, professional development, and support 73328  
services, and to provide services to participate in the State 73329  
Education Technology Plan pursuant to section 3301.07 of the 73330  
Revised Code. 73331

Of the foregoing appropriation item 200-446, Education 73332  
Management Information System, up to \$8,055,189 in each fiscal 73333  
year shall be distributed on a per-pupil basis to school 73334  
districts, community schools established under Chapter 3314. of 73335  
the Revised Code, education service centers, joint vocational 73336  
school districts, and any other education entity that reports data 73337  
through EMIS. From this funding, each school district or community 73338  
school established under Chapter 3314. of the Revised Code with 73339

enrollment greater than 100 students and each vocational school 73340  
district shall receive a minimum of \$5,000 in each fiscal year. 73341  
Each school district or community school established under Chapter 73342  
3314. of the Revised Code with enrollment between one and one 73343  
hundred and each education service center and each county board of 73344  
MR/DD that submits data through EMIS shall receive \$3,000 in each 73345  
fiscal year. This subsidy shall be used for costs relating to 73346  
reporting, processing, storing, transferring, and exchanging data 73347  
necessary to meet requirements of the Department of Education's 73348  
data system. 73349

Of the foregoing appropriation item 200-446, Education 73350  
Management Information System, \$2,532,500 in each fiscal year 73351  
shall be used by the Department of Education to phase in the 73352  
Student Management Record System, as defined by the Department of 73353  
Education, on a statewide basis. The Department of Education shall 73354  
work with data acquisition sites and their member school districts 73355  
and community schools to implement the software in five or more 73356  
data acquisition sites in each fiscal year. On an annual basis, 73357  
the Department of Education shall convene an advisory group of 73358  
school districts and community schools to review the Student 73359  
Management Record System for changes and enhancements and survey 73360  
the industry to ensure that the Student Management Record System 73361  
represents best practices and meets the needs of school districts. 73362

GED TESTING/ADULT HIGH SCHOOL 73363

The foregoing appropriation item 200-447, GED Testing/Adult 73364  
High School, shall be used to provide General Educational 73365  
Development (GED) testing at no cost to applicants, pursuant to 73366  
rules adopted by the State Board of Education. The Department of 73367  
Education shall reimburse school districts and community schools, 73368  
created in accordance with Chapter 3314. of the Revised Code, for 73369  
a portion of the costs incurred in providing summer instructional 73370  
or intervention services to students who have not graduated due to 73371

their inability to pass one or more parts of the state's ninth 73372  
grade proficiency test. School districts shall also provide such 73373  
services to students who are residents of the district pursuant to 73374  
section 3313.64 of the Revised Code, but who are enrolled in 73375  
chartered, nonpublic schools. The services shall be provided in 73376  
the public school, in nonpublic schools, in public centers, or in 73377  
mobile units located on or off the nonpublic school premises. No 73378  
school district shall provide summer instructional or intervention 73379  
services to nonpublic school students as authorized by this 73380  
section unless such services are available to students attending 73381  
the public schools within the district. No school district shall 73382  
provide services for use in religious courses, devotional 73383  
exercises, religious training, or any other religious activity. 73384  
Chartered, nonpublic schools shall pay for any unreimbursed costs 73385  
incurred by school districts for providing summer instruction or 73386  
intervention services to students enrolled in chartered, nonpublic 73387  
schools. School districts may provide these services to students 73388  
directly or contract with postsecondary or nonprofit 73389  
community-based institutions in providing instruction. The 73390  
appropriation also shall be used for state reimbursement to school 73391  
districts for adult high school continuing education programs 73392  
pursuant to section 3313.531 of the Revised Code or for costs 73393  
associated with awarding adult high school diplomas under section 73394  
3313.611 of the Revised Code. 73395

EDUCATOR PREPARATION 73396

The foregoing appropriation item 200-448, Educator 73397  
Preparation, shall be used by the Ohio Teacher Education and 73398  
Licensure Advisory Commission to carry out the responsibilities of 73399  
the 21-member Ohio Teacher Education and Licensure Advisory 73400  
Commission. The advisory commission is charged by the State Board 73401  
of Education with considering all matters related to educator 73402  
preparation and licensure, including standards for educator 73403



preparation and licensure, approval of institutions and programs, 73404  
and recommending decisions to the State Board of Education. 73405

TITLE IV-A HEAD START AND TITLE IV-A HEAD START PLUS START UP 73406

The foregoing appropriation item 200-449, Head Start/Head 73407  
Start Plus Start Up, shall be used to provide start up grants for 73408  
Title IV-A reimbursable funding for the provision of services to 73409  
children eligible for Title IV-A services. In fiscal year 2004, 73410  
these grants shall be provided to Title IV-A Head Start agencies. 73411  
In fiscal year 2005, these grants shall be provided to Title IV-A 73412  
Head Start agencies and Title IV-A Head Start Plus agencies. The 73413  
amount of each grant shall be determined by the Department of 73414  
Education. Funds appropriated for this purpose shall be reimbursed 73415  
to the General Revenue Fund when the Title IV-A Head Start or 73416  
Title IV-A Head Start Plus programs cease or are no longer funded 73417  
from Title IV-A. If one program ceases or is no longer funded with 73418  
Title IV-A funds, the General Revenue Fund will be reimbursed for 73419  
that program. 73420

If a Title IV-A Head Start agency or Title IV-A Head Start 73421  
Plus agency chooses not to participate in the program or if the 73422  
Department or Education suspends or terminates part or all of its 73423  
funding, reimbursement owed to the grantee shall be held by the 73424  
Department of Education up to the amount of the grant owed by the 73425  
grantee. If insufficient reimbursement is available to recover the 73426  
amount owed by the grantee, the grantee shall return the remaining 73427  
balance within 60 days of the date of the decision not to 73428  
participate, the suspension, or the termination. Funding recovered 73429  
from such grantees shall be used by the Department of Education 73430  
for supplying grants to new grantees for Title IV-A reimbursable 73431  
funding for provision of services to children eligible for Title 73432  
IV-A services. Any funding remaining when the Title IV-A Head 73433  
Start and the Title IV-A Head Start Plus programs cease or are no 73434  
longer funded with Title IV-A funds shall be returned to the 73435

General Revenue Fund. 73436

The Title IV-A Head Start Plus agency that is receiving funds 73437  
to operate a Head Start program in accordance with section 3301.35 73438  
of the Revised Code shall provide the program through contracts 73439  
with child care providers licensed or certified in accordance with 73440  
Chapter 5104. of the Revised Code. If a licensed or certified 73441  
child care provider is not in operation or willing to participate 73442  
and if eligible families are in need of full-day and full-year 73443  
Head Start and child care services, the Title IV-A Head Start Plus 73444  
agency may be the sole source provider. 73445

TEACHING SUCCESS COMMISSION INITIATIVES 73446

The foregoing appropriation item 200-452, Teaching Success 73447  
Commission Initiatives, shall be used by the Department of 73448  
Education to support initiatives recommended by the Governor's 73449  
Commission on Teaching Success. 73450

COMMUNITY SCHOOLS 73451

Of the foregoing appropriation item 200-455, Community 73452  
Schools, up to \$1,308,661 in each fiscal year may be used by the 73453  
Department of Education for additional services and 73454  
responsibilities under section 3314.11 of the Revised Code. 73455

Of the foregoing appropriation item 200-455, Community 73456  
Schools, up to \$250,000 in each fiscal year may be used by the 73457  
Department of Education for developing and conducting training 73458  
sessions for sponsors and prospective sponsors of community 73459  
schools as prescribed in division (A)(1) of section 3314.015 of 73460  
the Revised Code. In developing such training sessions, the 73461  
Department shall collect and disseminate examples of best 73462  
practices used by sponsors of independent charter schools in Ohio 73463  
and other states. 73464

The remaining appropriation may be used by the Department of 73465  
Education to make grants of up to \$50,000 to each proposing group 73466

with a preliminary agreement obtained under division (C)(2) of 73467  
section 3314.02 of the Revised Code in order to defray planning 73468  
and initial start-up costs. In the first year of operation of a 73469  
community school, the Department of Education may make a grant of 73470  
not more than \$100,000 to the governing authority of the school to 73471  
partially defray additional start-up costs. The amount of the 73472  
grant shall be based on a thorough examination of the needs of the 73473  
community school. The Department of Education shall not utilize 73474  
moneys received under this section for any other purpose other 73475  
than those specified under this section. 73476

A community school awarded start-up grants from appropriation 73477  
item 200-613, Public Charter Schools (Fund 3T4), shall not be 73478  
eligible for grants under this section. 73479

**Section 40.07. SCHOOL FINANCE EQUITY** 73480

The foregoing appropriation item 200-500, School Finance 73481  
Equity, shall be distributed to school districts based on the 73482  
formula specified in section 3317.0213 of the Revised Code. 73483

**Section 40.08. BASE COST FUNDING** 73484

The foregoing appropriation item 200-501, Base Cost Funding, 73485  
includes \$90,000,000 in each fiscal year for the state education 73486  
aid offset due to the change in public utility valuation as a 73487  
result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd 73488  
General Assembly. This amount represents the total state education 73489  
aid offset due to the valuation change for school districts and 73490  
joint vocational school districts from all relevant appropriation 73491  
line item sources. If it is determined that the state education 73492  
aid offset is more than \$90,000,000, the Controlling Board may 73493  
increase the appropriation for appropriation item 200-501, Base 73494  
Cost Funding, by the difference amount if presented with such a 73495  
request from the Department of Education. The appropriation 73496

increase, if any, is hereby appropriated. If it is determined that 73497  
the state education aid offset is less than \$90,000,000, the 73498  
Director of Budget and Management shall then reduce the 73499  
appropriation for appropriation item 200-501, Base Cost Funding, 73500  
by the difference amount and notify the Controlling Board of this 73501  
action. The appropriation decrease determined by the Director of 73502  
Budget and Management, if any, is hereby approved, and 73503  
appropriations are hereby reduced by the amount determined. 73504

Of the foregoing appropriation item 200-501, Base Cost 73505  
Funding, up to \$425,000 shall be expended in each fiscal year for 73506  
court payments pursuant to section 2151.357 of the Revised Code; 73507  
an amount shall be available in each fiscal year for the cost of 73508  
reappraisal guarantee pursuant to section 3317.04 of the Revised 73509  
Code; an amount shall be available in each fiscal year to fund up 73510  
to 225 full-time equivalent approved GRADS teacher grants pursuant 73511  
to division (R) of section 3317.024 of the Revised Code; an amount 73512  
shall be available in each fiscal year to make payments to school 73513  
districts pursuant to division (A)(2) of section 3317.022 of the 73514  
Revised Code; an amount shall be available in each fiscal year to 73515  
make payments to school districts pursuant to division (F) of 73516  
section 3317.022 of the Revised Code; an amount shall be available 73517  
in each fiscal year to make payments to school districts pursuant 73518  
to division (C) of section 3317.0212 of the Revised Code; and up 73519  
to \$15,000,000 in each fiscal year shall be reserved for payments 73520  
pursuant to sections 3317.026, 3317.027, and 3317.028 of the 73521  
Revised Code except that the Controlling Board may increase the 73522  
\$15,000,000 amount if presented with such a request from the 73523  
Department of Education. Of the foregoing appropriation item 73524  
200-501, Base Cost Funding, up to \$15,000,000 in each fiscal year 73525  
shall be used to provide additional state aid to school districts 73526  
for special education students pursuant to division (C)(3) of 73527  
section 3317.022 of the Revised Code; up to \$2,000,000 in each 73528  
fiscal year shall be reserved for Youth Services tuition payments 73529

pursuant to section 3317.024 of the Revised Code; and up to 73530  
\$52,000,000 in each fiscal year shall be reserved to fund the 73531  
state reimbursement of educational service centers pursuant to 73532  
section 3317.11 of the Revised Code and the section of this act 73533  
entitled "EDUCATIONAL SERVICE CENTERS FUNDING." An amount shall be 73534  
available for special education weighted funding pursuant to 73535  
division (C)(1) of section 3317.022 and division (D)(1) of section 73536  
3317.16 of the Revised Code. 73537

Of the foregoing appropriation item 200-501, Base Cost 73538  
Funding, up to \$1,000,000 in each fiscal year shall be used by the 73539  
Department of Education for a pilot program to pay for educational 73540  
services for youth who have been assigned by a juvenile court or 73541  
other authorized agency to any of the facilities described in 73542  
division (A) of the section titled "Private Treatment Facility 73543  
Pilot Project." 73544

The remaining portion of appropriation item 200-501, Base 73545  
Cost Funding, shall be expended for the public schools of city, 73546  
local, exempted village, and joint vocational school districts, 73547  
including base cost funding, special education speech service 73548  
enhancement funding, career-technical education weight funding, 73549  
career-technical education associated service funding, guarantee 73550  
funding, and teacher training and experience funding pursuant to 73551  
sections 3317.022, 3317.023, 3317.0212, and 3317.16 of the Revised 73552  
Code. 73553

Appropriation items 200-500, School Finance Equity, 200-501, 73554  
Base Cost Funding, 200-502, Pupil Transportation, 200-520, 73555  
Disadvantaged Pupil Impact Aid, 200-521, Gifted Pupil Program, 73556  
200-525, Parity Aid, and 200-546, Charge-Off Supplement, other 73557  
than specific set-asides, are collectively used in fiscal year 73558  
2004 to pay state formula aid obligations for school districts and 73559  
joint vocational school districts pursuant to Chapter 3317. of the 73560  
Revised Code. The first priority of these appropriation items, 73561

with the exception of specific set-asides, is to fund state 73562  
formula aid obligations under Chapter 3317. of the Revised Code. 73563  
It may be necessary to reallocate funds among these appropriation 73564  
items in order to meet state formula aid obligations. If it is 73565  
determined that it is necessary to transfer funds among these 73566  
appropriation items to meet state formula aid obligations, the 73567  
Department of Education shall seek approval from the Controlling 73568  
Board to transfer funds among these appropriation items. 73569

**Section 40.09.** PUPIL TRANSPORTATION 73570

Of the foregoing appropriation item 200-502, Pupil 73571  
Transportation, up to \$822,400 in each fiscal year may be used by 73572  
the Department of Education for training prospective and 73573  
experienced school bus drivers in accordance with training 73574  
programs prescribed by the Department. Up to \$56,975,910 in each 73575  
fiscal year may be used by the Department of Education for special 73576  
education transportation reimbursements to school districts and 73577  
county MR/DD boards for transportation operating costs as provided 73578  
in division (M) of section 3317.024 of the Revised Code. The 73579  
remainder of appropriation item 200-502, Pupil Transportation, 73580  
shall be used for the state reimbursement of public school 73581  
districts' costs in transporting pupils to and from the school 73582  
they attend in accordance with the district's policy, State Board 73583  
of Education standards, and the Revised Code. 73584

BUS PURCHASE ALLOWANCE 73585

The foregoing appropriation item 200-503, Bus Purchase 73586  
Allowance, shall be distributed to school districts, educational 73587  
service centers, and county MR/DD boards pursuant to rules adopted 73588  
under section 3317.07 of the Revised Code. Up to 28 per cent of 73589  
the amount appropriated may be used to reimburse school districts 73590  
and educational service centers for the purchase of buses to 73591  
transport handicapped and nonpublic school students and to county 73592

MR/DD boards, the Ohio School for the Deaf, and the Ohio School 73593  
for the Blind for the purchase of buses to transport handicapped 73594  
students. 73595

SCHOOL LUNCH MATCH 73596

The foregoing appropriation item 200-505, School Lunch Match, 73597  
shall be used to provide matching funds to obtain federal funds 73598  
for the school lunch program. 73599

**Section 40.10. ADULT LITERACY EDUCATION** 73600

The foregoing appropriation item 200-509, Adult Literacy 73601  
Education, shall be used to support adult basic and literacy 73602  
education instructional programs and the State Literacy Resource 73603  
Center Program. 73604

Of the foregoing appropriation item 200-509, Adult Literacy 73605  
Education, up to \$519,188 in each fiscal year shall be used for 73606  
the support and operation of the State Literacy Resource Center. 73607

Of the foregoing appropriation item 200-509, Adult Literacy 73608  
Education, \$146,250 in each fiscal year shall be used to support 73609  
initiatives for English as a second language programs in 73610  
combination with citizenship. Funding shall be provided to 73611  
organizations that received such funds during fiscal year 2003 73612  
from appropriation item 200-570, School Improvement Incentive 73613  
Grants. 73614

The remainder of the appropriation shall be used to continue 73615  
to satisfy the state match and maintenance of effort requirements 73616  
for the support and operation of the Department of 73617  
Education-administered instructional grant program for adult basic 73618  
and literacy education in accordance with the department's state 73619  
plan for adult basic and literacy education as approved by the 73620  
State Board of Education and the Secretary of the United States 73621  
Department of Education. 73622

AUXILIARY SERVICES 73623

The foregoing appropriation item 200-511, Auxiliary Services, 73624  
shall be used by the Department of Education for the purpose of 73625  
implementing section 3317.06 of the Revised Code. Of the 73626  
appropriation, up to \$1,462,500 in each fiscal year may be used 73627  
for payment of the Post-Secondary Enrollment Options Program for 73628  
nonpublic students pursuant to section 3365.10 of the Revised 73629  
Code. 73630

STUDENT INTERVENTION SERVICES 73631

The foregoing appropriation item 200-513, Student 73632  
Intervention Services, shall be used to assist districts providing 73633  
the intervention services specified in section 3313.608 of the 73634  
Revised Code. The Department of Education shall establish 73635  
guidelines for the use and distribution of these moneys. School 73636  
districts receiving funds from this appropriation shall report to 73637  
the Department of Education on how funds were used. 73638

POSTSECONDARY ADULT CAREER-TECHNICAL EDUCATION 73639

Of the foregoing appropriation item 200-514, Postsecondary 73640  
Adult Career-Technical Education, \$40,000 in each fiscal year 73641  
shall be used for the statewide coordination of the activities of 73642  
the Ohio Young Farmers. 73643

The remainder of appropriation item 200-514, Postsecondary 73644  
Adult Career-Technical Education, shall be used by the State Board 73645  
of Education to provide postsecondary adult career-technical 73646  
education under sections 3313.52 and 3313.53 of the Revised Code. 73647

DISADVANTAGED PUPIL IMPACT AID 73648

Notwithstanding the distribution formula outlined in section 73649  
3317.029 of the Revised Code, each school district shall receive 73650  
an additional two per cent in Disadvantaged Pupil Impact Aid 73651  
(DPIA) funding in fiscal year 2004 over what was received in 73652



fiscal year 2003 unless the district receives DPIA funding from 73653  
the DPIA guarantee provision pursuant to division (B) of section 73654  
3317.029 of the Revised Code in fiscal year 2003. For such a 73655  
district, its DPIA funding in fiscal year 2004 shall equal the 73656  
amount of DPIA funding the district received in fiscal year 2003. 73657

Notwithstanding the distribution formula outlined in section 73658  
3317.029 of the Revised Code, each school district shall receive 73659  
an additional two per cent in DPIA funding in fiscal year 2005 73660  
over what was received in fiscal year 2004 unless the district 73661  
receives DPIA funding from the DPIA guarantee provision pursuant 73662  
to division (B) of section 3317.029 of the Revised Code in fiscal 73663  
year 2003. For such a district, its DPIA funding in fiscal year 73664  
2005 shall equal the amount of DPIA funding the district received 73665  
in fiscal year 2004. 73666

School districts must continue to comply with all expenditure 73667  
guidelines and restrictions outlined in divisions (F), (G), (I), 73668  
and (K) of section 3317.029 of the Revised Code by assuming a two 73669  
per cent increase in funds for each program outlined in divisions 73670  
(C), (D), and (E) of section 3317.029 of the Revised Code and by 73671  
assuming a DPIA index equivalent to the index calculated in fiscal 73672  
year 2003. 73673

The Department of Education shall pay all-day, everyday 73674  
kindergarten funding to all school districts in each fiscal year 73675  
that qualified for and provided the service in fiscal year 2003 73676  
pursuant to section 3317.029 of the Revised Code. School districts 73677  
and community schools that did not have a DPIA allocation in 73678  
fiscal year 2003 shall not receive an allocation in fiscal year 73679  
2004 or fiscal year 2005. 73680

Of the foregoing appropriation item 200-520, Disadvantaged 73681  
Pupil Impact Aid, up to \$3,800,000 in each fiscal year shall be 73682  
used for school breakfast programs. Of this amount, up to 73683  
\$1,000,000 shall be used in each fiscal year by the Department of 73684

Education for the purpose of increasing participation in child 73685  
nutrition programs, particularly school breakfast and summer 73686  
meals. The Department shall collaborate with the Children's Hunger 73687  
Alliance in the outreach effort. The remainder of the 73688  
appropriation shall be used to partially reimburse school 73689  
buildings within school districts that are required to have a 73690  
school breakfast program pursuant to section 3313.813 of the 73691  
Revised Code, at a rate decided by the Department. 73692

Of the portion of the funds distributed to the Cleveland 73693  
Municipal School District under this section, up to \$11,901,887 in 73694  
each fiscal year shall be used to operate the school choice 73695  
program in the Cleveland Municipal School District pursuant to 73696  
sections 3313.974 to 3313.979 of the Revised Code. 73697

**Section 40.11. GIFTED PUPIL PROGRAM** 73698

The foregoing appropriation item 200-521, Gifted Pupil 73699  
Program, shall be used for gifted education units not to exceed 73700  
1,110 in each fiscal year pursuant to division (P) of section 73701  
3317.024 and division (F) of section 3317.05 of the Revised Code. 73702

Of the foregoing appropriation item 200-521, Gifted Pupil 73703  
Program, up to \$5,000,000 each in fiscal year may be used as an 73704  
additional supplement for identifying gifted students pursuant to 73705  
Chapter 3324. of the Revised Code. 73706

Of the foregoing appropriation item 200-521, Gifted Pupil 73707  
Program, the Department of Education may expend up to \$1,000,000 73708  
in each fiscal year for the Summer Honors Institute for gifted 73709  
freshman and sophomore high school students. Up to \$600,000 in 73710  
each fiscal year shall be used for research and demonstration 73711  
projects. The Department of Education shall research and evaluate 73712  
the effectiveness of gifted education programs in Ohio. Up to 73713  
\$70,000 in each fiscal year shall be used for the Ohio Summer 73714  
School for the Gifted (Martin Essex Program). 73715

**Section 40.12. PARITY AID** 73716

The foregoing appropriation item 200-525, Parity Aid, shall 73717  
be distributed to school districts based on the formulas specified 73718  
in section 3317.0217 of the Revised Code. 73719

**NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT** 73720

The foregoing appropriation item 200-532, Nonpublic 73721  
Administrative Cost Reimbursement, shall be used by the Department 73722  
of Education for the purpose of implementing section 3317.063 of 73723  
the Revised Code. 73724

**Section 40.13. SPECIAL EDUCATION ENHANCEMENTS** 73725

Of the foregoing appropriation item 200-540, Special 73726  
Education Enhancements, up to \$44,204,000 in fiscal year 2004 and 73727  
up to \$45,441,712 in fiscal year 2005 shall be used to fund 73728  
special education and related services at county boards of mental 73729  
retardation and developmental disabilities for eligible students 73730  
under section 3317.20 of the Revised Code. Up to \$2,452,125 shall 73731  
be used in each fiscal year to fund special education classroom 73732  
and related services units at institutions. 73733

Of the foregoing appropriation item 200-540, Special 73734  
Education Enhancements, up to \$2,906,875 in each fiscal year shall 73735  
be used for home instruction for children with disabilities; up to 73736  
\$1,462,500 in each fiscal year shall be used for parent mentoring 73737  
programs; and up to \$2,783,396 in each fiscal year may be used for 73738  
school psychology interns. 73739

Of the foregoing appropriation item 200-540, Special 73740  
Education Enhancements, \$3,406,090 in each fiscal year shall be 73741  
used by the Department of Education to assist school districts in 73742  
funding aides pursuant to paragraph (A)(3)(c)(i)(b) of rule 73743  
3301-51-04 of the Administrative Code. 73744

Of the foregoing appropriation item 200-540, Special 73745  
Education Enhancements, \$78,384,498 in each fiscal year shall be 73746  
distributed by the Department of Education to county boards of 73747  
mental retardation and developmental disabilities, educational 73748  
service centers, and school districts for preschool special 73749  
education units and preschool supervisory units in accordance with 73750  
section 3317.161 of the Revised Code. The department may reimburse 73751  
county boards of mental retardation and developmental 73752  
disabilities, educational service centers, and school districts 73753  
for related services as defined in rule 3301-31-05 of the 73754  
Administrative Code, for preschool occupational and physical 73755  
therapy services provided by a physical therapy assistant and 73756  
certified occupational therapy assistant, and for an instructional 73757  
assistant. To the greatest extent possible, the Department of 73758  
Education shall allocate these units to school districts and 73759  
educational service centers. The Controlling Board may approve the 73760  
transfer of unallocated funds from appropriation item 200-501, 73761  
Base Cost Funding, to appropriation item 200-540, Special 73762  
Education Enhancements, to fully fund existing units as necessary 73763  
or to fully fund additional units. The Controlling Board may 73764  
approve the transfer of unallocated funds from appropriation item 73765  
200-540, Special Education Enhancements, to appropriation item 73766  
200-501, Base Cost Funding, to fully fund the special education 73767  
weight cost funding. 73768

The Department of Education shall require school districts, 73769  
educational service centers, and county MR/DD boards serving 73770  
preschool children with disabilities to document child progress 73771  
using research-based indicators prescribed by the Department and 73772  
report results annually. The reporting dates and methodology shall 73773  
be determined by the Department. 73774

Of the foregoing appropriation item 200-540, Special 73775  
Education Enhancements, \$315,000 in each fiscal year shall be 73776

expended to conduct a demonstration project involving language and 73777  
literacy intervention teams supporting student acquisition of 73778  
language and literacy skills. The demonstration project shall 73779  
demonstrate improvement of language and literacy skills of at-risk 73780  
learners under the instruction of certified speech pathologists 73781  
and educators. Baseline data shall be collected and comparison 73782  
data for fiscal year 2004 and fiscal year 2005 shall be collected 73783  
and reported to the Governor, Ohio Reads Council, Department of 73784  
Education, and the General Assembly. 73785

Of the foregoing appropriation item 200-540, Special 73786  
Education Enhancements, up to \$500,000 in each fiscal year shall 73787  
be used for the Research-Based Reading Mentoring Program. 73788

Of the foregoing appropriation item 200-540, Special 73789  
Education Enhancements, \$1,000,000 in each fiscal year shall be 73790  
used to support the Bellefaire Jewish Children's Bureau. 73791

**Section 40.14. CAREER-TECHNICAL EDUCATION ENHANCEMENTS** 73792

Of the foregoing appropriation item 200-545, Career-Technical 73793  
Education Enhancements, up to \$2,576,107 in each fiscal year shall 73794  
be used to fund career-technical education units at institutions. 73795

Of the foregoing appropriation item 200-545, Career-Technical 73796  
Education Enhancements, up to \$2,925,000 in each fiscal year shall 73797  
be used by the Department of Education to fund competitive grants 73798  
to tech prep consortia that expand the number of students enrolled 73799  
in tech prep programs. These grant funds shall be used to directly 73800  
support expanded tech prep programs, including equipment, provided 73801  
to students enrolled in school districts, including joint 73802  
vocational school districts, and affiliated higher education 73803  
institutions. 73804

Of the foregoing appropriation item 200-545, Career-Technical 73805  
Education Enhancements, \$2,225,000 in each fiscal year shall be 73806

used for the replacement or updating of equipment on the basis of 73807  
the number of full-time equivalent workforce development teachers 73808  
in all eligible districts making application for funds. 73809

Equipment funds allotted shall be provided to a school 73810  
district using the state share percentage as provided in division 73811  
(B)(2) of section 3317.022 of the Revised Code. 73812

Of the foregoing appropriation item 200-545, Career-Technical 73813  
Education Enhancements, up to \$3,650,000 in each fiscal year shall 73814  
be used by the Department of Education to support existing High 73815  
Schools That Work (HSTW) sites, develop and support new sites, 73816  
fund technical assistance, and support regional centers and middle 73817  
school programs. The purpose of HSTW is to combine challenging 73818  
academic courses and modern career-technical studies to raise the 73819  
academic achievement of students. It provides intensive technical 73820  
assistance, focused staff development, targeted assessment 73821  
services, and ongoing communications and networking opportunities. 73822

Of the foregoing appropriation item 200-545, Career-Technical 73823  
Education Enhancements, \$2,400,000 in each fiscal year shall be 73824  
used for K-12 career development. 73825

Of the foregoing appropriation item 200-545, Career-Technical 73826  
Education Enhancements, up to \$496,800 in each fiscal year shall 73827  
be allocated for the Ohio Career Information System (OCIS) and 73828  
used for the dissemination of career information data to public 73829  
schools, libraries, rehabilitation centers, two- and four-year 73830  
colleges and universities, and other governmental units. 73831

Of the foregoing appropriation item 200-545, Career-Technical 73832  
Educational Enhancements, \$300,000 in each fiscal year shall be 73833  
used by the Department of Education to enable students in 73834  
agricultural programs to enroll in a fifth quarter of instruction 73835  
based on the agricultural education model of delivering work-based 73836  
learning through supervised agricultural experience. The 73837

Department of Education shall determine eligibility criteria and 73838  
the reporting process for the Agriculture 5th Quarter Project and 73839  
shall fund as many programs as possible given the \$300,000 set 73840  
aside. 73841

**Section 40.15. CHARGE-OFF SUPPLEMENT** 73842

The foregoing appropriation item 200-546, Charge-Off 73843  
Supplement, shall be used by the Department of Education to make 73844  
payments pursuant to section 3317.0216 of the Revised Code. 73845

**EMERGENCY LOAN INTEREST SUBSIDY** 73846

The foregoing appropriation item 200-558, Emergency Loan 73847  
Interest Subsidy, shall be used to provide a subsidy to school 73848  
districts receiving emergency school loans pursuant to section 73849  
3313.484 of the Revised Code. The subsidy shall be used to pay 73850  
these districts the difference between the amount of interest the 73851  
district is paying on an emergency loan, and the interest that the 73852  
district would have paid if the interest rate on the loan had been 73853  
two per cent. 73854

**Section 40.16. OHIOREADS GRANTS** 73855

Of the foregoing appropriation item 200-566, OhioReads 73856  
Grants, the OhioReads Office in the Department of Education may 73857  
use up to \$2,125,223 in fiscal year 2004 and up to \$2,167,728 in 73858  
fiscal year 2005 to fund the STARS program. 73859

The remainder of the foregoing appropriation item 200-566, 73860  
OhioReads Grants, shall be disbursed by the OhioReads Office in 73861  
the Department of Education at the direction of the OhioReads 73862  
Council to provide grants to public schools in city, local, and 73863  
exempted village school districts; community schools; and 73864  
educational service centers serving kindergarten through fourth 73865  
grade students to support local reading literacy initiatives 73866  
including reading programs, materials, professional development, 73867

tutoring, tutor recruitment and training, and parental involvement. 73868  
73869

Grants awarded by the OhioReads Council are intended to improve reading outcomes, especially on reading proficiency tests. 73870  
73871

SAFE AND SUPPORTIVE SCHOOLS 73872

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$224,250 in each fiscal year shall be used to fund a safe school center to provide resources for parents and for school and law enforcement personnel. 73873  
73874  
73875  
73876

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$20,000 in each fiscal year may be used by schools for the Eddie Eagle Gun Safety Pilot Program. School districts wishing to participate in the pilot program shall apply to the Department of Education under guidelines established by the Superintendent of Public Instruction. 73877  
73878  
73879  
73880  
73881  
73882

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$1,800,000 in each fiscal year shall be used for a safe school help line. 73883  
73884  
73885

The remainder of the appropriation shall be distributed based on guidelines developed by the Department of Education to enhance school safety. The guidelines shall provide a list of research-based best practices and programs from which local grantees shall select based on local needs. These practices shall include, but not be limited to, school resource officers and safe and drug free school coordinators and social-emotional development programs. 73886  
73887  
73888  
73889  
73890  
73891  
73892  
73893

**Section 40.17. PROPERTY TAX ALLOCATION - EDUCATION** 73894

The Superintendent of Public Instruction shall not request, and the Controlling Board shall not approve, the transfer of funds from appropriation item 200-901, Property Tax Allocation - 73895  
73896  
73897



Education, to any other appropriation item. 73898

The appropriation item 200-901, Property Tax Allocation - 73899  
Education, is appropriated to pay for the state's costs incurred 73900  
due to the homestead exemption and the property tax rollback. In 73901  
cooperation with the Department of Taxation, the Department of 73902  
Education shall distribute these funds directly to the appropriate 73903  
school districts of the state, notwithstanding sections 321.24 and 73904  
323.156 of the Revised Code, which provide for payment of the 73905  
homestead exemption and property tax rollback by the Tax 73906  
Commissioner to the appropriate county treasurer and the 73907  
subsequent redistribution of these funds to the appropriate local 73908  
taxing districts by the county auditor. 73909

Appropriation item 200-906, Tangible Tax Exemption - 73910  
Education, is appropriated to pay for the state's costs incurred 73911  
due to the tangible personal property tax exemption required by 73912  
division (C)(3) of section 5709.01 of the Revised Code. In 73913  
cooperation with the Department of Taxation, the Department of 73914  
Education shall distribute to each county treasurer the total 73915  
amount certified by the county treasurer pursuant to section 73916  
319.311 of the Revised Code, for all school districts located in 73917  
the county, notwithstanding the provision in section 319.311 of 73918  
the Revised Code which provides for payment of the \$10,000 73919  
tangible personal property tax exemption by the Tax Commissioner 73920  
to the appropriate county treasurer for all local taxing districts 73921  
located in the county. Pursuant to division (G) of section 321.24 73922  
of the Revised Code, the county auditor shall distribute the 73923  
amount paid by the Department of Education among the appropriate 73924  
school districts. 73925

Upon receipt of these amounts, each school district shall 73926  
distribute the amount among the proper funds as if it had been 73927  
paid as real or tangible personal property taxes. Payments for the 73928  
costs of administration shall continue to be paid to the county 73929

treasurer and county auditor as provided for in sections 319.54, 73930  
321.26, and 323.156 of the Revised Code. 73931

Any sums, in addition to the amounts specifically 73932  
appropriated in appropriation items 200-901, Property Tax 73933  
Allocation - Education, for the homestead exemption and the 73934  
property tax rollback payments, and 200-906, Tangible Tax 73935  
Exemption - Education, for the \$10,000 tangible personal property 73936  
tax exemption payments, which are determined to be necessary for 73937  
these purposes, are hereby appropriated. 73938

**Section 40.18. TEACHER CERTIFICATION AND LICENSURE 73939**

The foregoing appropriation item 200-681, Teacher 73940  
Certification and Licensure, shall be used by the Department of 73941  
Education in each year of the biennium to administer teacher 73942  
certification and licensure functions pursuant to sections 73943  
3301.071, 3301.074, 3301.50, 3301.51, 3319.088, 3319.22, 3319.24 73944  
to 3319.28, 3319.281, 3319.282, 3319.29, 3319.301, 3319.31, and 73945  
3319.51 of the Revised Code. 73946

**SCHOOL DISTRICT SOLVENCY ASSISTANCE 73947**

Of the foregoing appropriation item 200-687, School District 73948  
Solvency Assistance, \$9,000,000 in each fiscal year shall be 73949  
allocated to the School District Shared Resource Account and 73950  
\$9,000,000 in each fiscal year shall be allocated to the 73951  
Catastrophic Expenditures Account. These funds shall be used to 73952  
provide assistance and grants to school districts to enable them 73953  
to remain solvent pursuant to section 3316.20 of the Revised Code. 73954  
Assistance and grants shall be subject to approval by the 73955  
Controlling Board. Any required reimbursements from school 73956  
districts for solvency assistance shall be made to the appropriate 73957  
account in the School District Solvency Assistance Fund (Fund 73958  
5H3). 73959

**Section 40.19.** HEAD START PLUS/HEAD START 73960

There is hereby established the Title IV-A Head Start Program 73961  
to be administered by the Department of Education in accordance 73962  
with an interagency agreement entered into with the Department of 73963  
Job and Family Services under division (A)(2) of section 5101.801 73964  
of the Revised Code. The program shall provide benefits and 73965  
services to TANF eligible individuals pursuant to the requirements 73966  
of section 5101.801 of the Revised Code. Upon approval by the 73967  
Department of Job and Family Services, the Department of Education 73968  
shall adopt policies and procedures establishing program 73969  
requirements for eligibility, services, fiscal accountability, and 73970  
other criteria necessary to comply with the provisions of Title 73971  
IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 73972  
301, as amended. 73973

The foregoing appropriation item 200-663, Head Start 73974  
Plus/Head Start, shall be used to reimburse Title IV-A Head Start 73975  
Plus and Title IV-A Head Start programs for services to children. 73976  
The Department of Education shall administer the Title IV-A Head 73977  
Start Plus and Title IV-A Head Start programs in accordance with 73978  
an interagency agreement between the Departments of Education and 73979  
Job and Family Services. Title IV-A Head Start Plus and Title IV-A 73980  
Head Start providers shall meet all requirements as outlined in 73981  
section 3301.311 of the Revised Code. The Department of Education 73982  
shall adopt policies and procedures to establish a procedure for 73983  
approving Title IV-A Head Start Plus and Title IV-A Head Start 73984  
agencies. 73985

Of the foregoing appropriation item 200-663, Head Start 73986  
Plus/Head Start, up to \$57,170,000 in fiscal year 2004 shall be 73987  
used to support the Title IV-A Head Start program. Up to two 73988  
percent of this amount may be used by the Department of Education 73989  
to provide associated program support and technical assistance. 73990

Of the foregoing appropriation item 200-663, Head Start 73991  
Plus/Head Start, up to \$85,000,000 in fiscal year 2005 shall be 73992  
used to support the Title IV-A Head Start Plus initiative. Title 73993  
IV-A Head Start Plus shall provide up to 10,000 slots of full-day, 73994  
full-year programming for children at least three years of age and 73995  
not kindergarten age eligible. The program shall meet the child 73996  
care needs of low-income families who meet eligibility 73997  
requirements established in rules and administrative orders 73998  
adopted by the Ohio Department of Job and Family Services and 73999  
provide early education and comprehensive services as provided 74000  
through the Head Start program before the enactment of this act. 74001

Of the foregoing appropriation item 200-663, Head Start 74002  
Plus/Head Start, up to \$23,184,000 in fiscal year 2005 shall be 74003  
used to support the Title IV-A Head Start program. This funding 74004  
shall be used to support up to 4,000 slots of traditional half-day 74005  
center-based, home-based, combination, or locally-designed option, 74006  
Title IV-A Head Start services. 74007

Of the foregoing appropriation line item 200-663, Head Start 74008  
Plus/Head Start, up to \$2,000,000 in fiscal year 2005 may be used 74009  
by the Department of Education to provide associated program 74010  
support and technical assistance. 74011

For purposes of this section, "eligible child" means a child 74012  
who is at least three years of age and not of compulsory school 74013  
age whose family earns not more than 100 per cent of the federal 74014  
poverty level, except as otherwise provided in the following 74015  
paragraph. 74016

The Department of Education, in consultation with Title IV-A 74017  
Head Start agencies and, beginning in July 1, 2004, Title IV-A 74018  
Head Start Plus agencies, shall establish criteria under which 74019  
these agencies may apply to the Department for a waiver to include 74020  
as "eligible children" those children from families earning up to 74021

the level of eligibility established for child care subsidy by the 74022  
Department of Job and Family Services who otherwise qualify as 74023  
"eligible children" under the preceding paragraph. 74024

In order to serve children whose families receive child care 74025  
subsidy, Title IV-A Head Start agencies may enroll children whose 74026  
families receive child care subsidy from the Ohio Department of 74027  
Job and Family Services. Title IV-A Head Start agencies providing 74028  
full-day, full-year comprehensive services, or otherwise meeting 74029  
the child care needs of working families, may partner with child 74030  
care centers or family day care homes or may access child care 74031  
subsidy directly. This provision is to meet the child care needs 74032  
of low-income families who are working, in training or education 74033  
programs, or participating in Ohio Works First approved 74034  
activities. 74035

For fiscal year 2005, the Department of Education shall 74036  
conduct a head count of the number of children served by Head 74037  
Start agencies under this program in December 2003. Any funding 74038  
appropriated to this program which the Department of Education 74039  
projects is not necessary to provide services to children enrolled 74040  
as of that count shall be returned to the Department of Job and 74041  
Family Services for use as child care assistance. 74042

The Department of Education shall provide an annual report to 74043  
the Governor, the Speaker of the House of Representatives, the 74044  
President of the Senate, the State Board of Education, Title IV-A 74045  
Head Start Plus and Title IV-A Head Start providers, and other 74046  
interested parties regarding the Title IV-A Head Start Plus and 74047  
Title IV-A Head Start program and performance indicators as 74048  
outlined by the Department of Education. 74049

**JOBS FOR OHIO GRADUATES PROGRAM** 74050

Pursuant to an interagency agreement entered into between the 74051  
Department of Job and Family Services and the Department of 74052

Education, \$1,750,000 from Workforce Investment Act funds (Fund 74053  
3V0), reserved for statewide workforce investment activities, in 74054  
fiscal year 2004 and fiscal year 2005, shall be used to support 74055  
the Jobs for Ohio Graduates programs administered by the 74056  
Department of Education. 74057

AUXILIARY SERVICES REIMBURSEMENT 74058

Notwithstanding section 3317.064 of the Revised Code, if the 74059  
unobligated cash balance is sufficient, the Treasurer of State 74060  
shall transfer \$1,500,000 in fiscal year 2004 within thirty days 74061  
after the effective date of this section and \$1,500,000 in fiscal 74062  
year 2005 by August 1, 2004, from the Auxiliary Services Personnel 74063  
Unemployment Compensation Fund to the Department of Education's 74064  
Auxiliary Services Reimbursement Fund (Fund 598). 74065

**Section 40.20.** LOTTERY PROFITS EDUCATION FUND 74066

Appropriation item 200-612, Base Cost Funding (Fund 017), 74067  
shall be used in conjunction with appropriation item 200-501, Base 74068  
Cost Funding (GRF), to provide payments to school districts 74069  
pursuant to Chapter 3317. of the Revised Code. 74070

The Department of Education, with the approval of the 74071  
Director of Budget and Management, shall determine the monthly 74072  
distribution schedules of appropriation item 200-501, Base Cost 74073  
Funding (GRF), and appropriation item 200-612, Base Cost Funding 74074  
(Fund 017). If adjustments to the monthly distribution schedule 74075  
are necessary, the Department of Education shall make such 74076  
adjustments with the approval of the Director of Budget and 74077  
Management. 74078

The Director of Budget and Management shall transfer via 74079  
intrastate transfer voucher the amount appropriated under the 74080  
Lottery Profits Education Fund for appropriation item 200-682, 74081  
Lease Rental Payment Reimbursement, to the General Revenue Fund on 74082

a schedule determined by the director. These funds shall support 74083  
the appropriation item 230-428, Lease Rental Payments (GRF), of 74084  
the School Facilities Commission. 74085

\* LOTTERY PROFITS TRANSFERS 74086

On or before the first day of May of each fiscal year, the 74087  
Director of Budget and Management shall determine if lottery 74088  
profits transfers will meet the appropriation amounts from the 74089  
Lottery Profits Education Fund. 74090

**Section 40.21.** LOTTERY PROFITS EDUCATION RESERVE FUND 74091

(A) There is hereby created the Lottery Profits Education 74092  
Reserve Fund (Fund 018) in the State Treasury. At no time shall 74093  
the amount to the credit of the fund exceed \$75,000,000. 74094  
Investment earnings of the Lottery Profits Education Reserve Fund 74095  
shall be credited to the fund. Notwithstanding any provisions of 74096  
law to the contrary, for fiscal years 2004 and 2005, there is 74097  
appropriated to the Department of Education, from the Lottery 74098  
Profits Education Reserve Fund, an amount necessary to make loans 74099  
authorized by sections 3317.0210, 3317.0211, and 3317.62 of the 74100  
Revised Code. All loan repayments from loans made in fiscal years 74101  
1992, 1993, 1994, 1995, 1996, 1997, 1998, or 1999 shall be 74102  
deposited into the credit of the Lottery Profits Education Reserve 74103  
Fund. 74104

(B)(1) On or before July 15, 2003, the Director of Budget and 74105  
Management shall determine the amount by which lottery profit 74106  
transfers received by the Lottery Profits Education Fund for 74107  
fiscal year 2003 exceed \$637,722,600. The amount so certified 74108  
shall be distributed in fiscal year 2004 pursuant to division (C) 74109  
of this section. 74110

(2) On or before July 15, 2004, the Director of Budget and 74111  
Management shall determine the amount by which lottery profit 74112

transfers received by the Lottery Profits Education Fund for 74113  
fiscal year 2004 exceed \$637,900,000. The amount so determined 74114  
shall be distributed in fiscal year 2005 pursuant to division (D) 74115  
of this section. 74116

The Director of Budget and Management shall annually certify 74117  
the amounts determined pursuant to this section to the Speaker of 74118  
the House of Representatives and the President of the Senate. 74119

(C) In fiscal year 2004, if there is a balance in the Lottery 74120  
Profits Education Fund, the moneys shall be allocated as provided 74121  
in this division. Any amounts so allocated are appropriated. 74122

An amount equal to five per cent of the estimated lottery 74123  
profits of \$637,722,600 in fiscal year 2003 or the amount 74124  
remaining in the fund, whichever is the lesser amount, shall be 74125  
transferred to the Lottery Profits Education Reserve Fund within 74126  
the limitations specified in division (A) of this section and be 74127  
reserved and shall not be available for allocation or distribution 74128  
during fiscal year 2004. Any amounts exceeding \$75,000,000 shall 74129  
be distributed pursuant to division (E) of this section. 74130

(D) In fiscal year 2005, if there is a balance in the Lottery 74131  
Profits Education Fund, the moneys shall be allocated as provided 74132  
in this division. Any amounts so allocated are appropriated. 74133

An amount equal to five per cent of the estimated lottery 74134  
profits transfers of \$637,900,000 in fiscal year 2004 or the 74135  
amount remaining in the fund, whichever is the lesser amount, 74136  
shall be transferred to the Lottery Profits Education Reserve Fund 74137  
within the limitations specified in division (A) of this section 74138  
and be reserved and shall not be available for allocation or 74139  
distribution during fiscal year 2005. Any amounts exceeding 74140  
\$75,000,000 shall be distributed pursuant to division (E) of this 74141  
section. 74142

(E) In the appropriate fiscal year, any remaining amounts 74143



after the operations required by division (C) or (D) of this 74144  
section, respectively, shall be transferred to the Public School 74145  
Building Fund (Fund 021) and such amount is appropriated to 74146  
appropriation item CAP-622, Public School Buildings, in the School 74147  
Facilities Commission. 74148

**Section 40.22. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT** 74149

The foregoing appropriation item 200-900, School District 74150  
Property Tax Replacement, shall be used by the Department of 74151  
Education, in consultation with the Department of Taxation, to 74152  
make payments to school districts and joint vocational school 74153  
districts pursuant to section 5727.85 of the Revised Code. 74154

**Section 40.23. \* DISTRIBUTION FORMULAS** 74155

The Department of Education shall report the following to the 74156  
Director of Budget and Management, the Legislative Office of 74157  
Education Oversight, and the Legislative Service Commission: 74158

(A) Changes in formulas for distributing state 74159  
appropriations, including administratively defined formula 74160  
factors; 74161

(B) Discretionary changes in formulas for distributing 74162  
federal appropriations; 74163

(C) Federally mandated changes in formulas for distributing 74164  
federal appropriations. 74165

Any such changes shall be reported two weeks prior to the 74166  
effective date of the change. 74167

**Section 40.24. DISTRIBUTION - SCHOOL DISTRICT SUBSIDY** 74168  
**PAYMENTS** 74169

This section shall not take effect unless the Director of 74170  
Budget and Management adopts an order putting it into effect and 74171

certifies a copy of the order to the Superintendent of Public Instruction and the Controlling Board. 74172  
74173

Notwithstanding any other provision of the Revised Code, the 74174  
monthly distribution of payments made to school districts and 74175  
educational service centers pursuant to section 3317.01 of the 74176  
Revised Code for the first six months of each fiscal year shall 74177  
equal, as nearly as possible, six and two-thirds per cent of the 74178  
estimate of the amounts payable for each fiscal year. The monthly 74179  
distribution of payments for the last six months of each fiscal 74180  
year shall equal, as nearly as possible, ten per cent of the final 74181  
calculation of the amounts payable to each school district for 74182  
that fiscal year. 74183

The treasurer of each school district or educational service 74184  
center may accrue, in addition to the payments defined in this 74185  
section, to the accounts of the calendar years that end during 74186  
each fiscal year, the difference between the sum of the first six 74187  
months' payments in each fiscal year and the amounts the district 74188  
would have received had the payments been made in, as nearly as 74189  
possible in each fiscal year, twelve equal monthly payments. 74190

Notwithstanding the limitations on the amount of borrowing 74191  
and time of payment provided for in section 133.10 of the Revised 74192  
Code but subject to sections 133.26 and 133.30 of the Revised 74193  
Code, a board of education of a school district may at any time 74194  
between July 1, 2003, and December 31, 2003, or at any time 74195  
between July 1, 2004, and December 31, 2004, borrow money to pay 74196  
any necessary and actual expenses of the school district during 74197  
the last six months of calendar years 2003 and 2004 and in 74198  
anticipation of the receipt of any portion of the payments to be 74199  
received by that district in the first six months of calendar 74200  
years 2004 and 2005 representing the respective amounts accrued 74201  
pursuant to the preceding paragraph, and issue notes to evidence 74202  
that borrowing to mature not later than the thirtieth day of June 74203

of the calendar year following the calendar year in which such 74204  
amount was borrowed. The principal amount borrowed in the last six 74205  
months of calendar years 2003 or 2004 under this paragraph may not 74206  
exceed the entire amount accrued or to be accrued by the district 74207  
treasurer in those calendar years pursuant to the preceding 74208  
paragraph. The proceeds of the notes shall be used only for the 74209  
purposes for which the anticipated receipts are lawfully 74210  
appropriated by the board of education. No board of education 74211  
shall be required to use the authority granted by this paragraph. 74212  
The receipts so anticipated, and additional amounts from 74213  
distributions to the districts in the first six months of calendar 74214  
years 2004 and 2005 pursuant to Chapter 3317. of the Revised Code 74215  
needed to pay the interest on the notes, shall be deemed 74216  
appropriated by the board of education to the extent necessary for 74217  
the payment of the principal of and interest on the notes at 74218  
maturity, and the amounts necessary to make those monthly 74219  
distributions are appropriated from the General Revenue Fund. For 74220  
the purpose of better ensuring the prompt payment of principal of 74221  
and interest on the notes when due, the resolution of the board of 74222  
education authorizing the notes may direct that the amount of the 74223  
receipts anticipated, together with those additional amounts 74224  
needed to pay the interest on the borrowed amounts, shall be 74225  
deposited and segregated, in trust or otherwise, to the extent, at 74226  
the time or times, and in the manner provided in that resolution. 74227  
The borrowing authorized by this section does not constitute debt 74228  
for purposes of section 133.04 of the Revised Code. School 74229  
districts shall be reimbursed by the state for all necessary and 74230  
actual costs to districts arising from this provision, including, 74231  
without limitation, the interest paid on the notes while the notes 74232  
are outstanding. The Department of Education shall adopt rules 74233  
that are not inconsistent with this section for school district 74234  
eligibility and application for reimbursement of such costs. 74235  
Payments of these costs shall be made out of any anticipated 74236

balances in appropriation items distributed under Chapter 3317. of 74237  
the Revised Code. The department shall submit all requests for 74238  
reimbursement under these provisions to the Controlling Board for 74239  
approval. 74240

During the last six months of each calendar year, instead of 74241  
deducting the amount the Superintendent of Public Instruction 74242  
would otherwise deduct from a school district's or educational 74243  
service center's state aid payments in accordance with the 74244  
certifications made for such year pursuant to sections 3307.56 and 74245  
3309.51 of the Revised Code, the superintendent shall deduct an 74246  
amount equal to forty per cent of the amount so certified. The 74247  
secretaries of the retirement systems shall compute the 74248  
certifications for the ensuing year under such sections as if the 74249  
entire amounts certified as due in the calendar year ending the 74250  
current fiscal year, but not deducted pursuant to this paragraph, 74251  
had been deducted and paid in that calendar year. During the first 74252  
six months of the ensuing calendar year, in addition to deducting 74253  
the amounts the Superintendent of Public Instruction is required 74254  
to deduct under such sections during such period, the 74255  
superintendent shall deduct from a district's or educational 74256  
service center's state aid payments an additional amount equal to 74257  
the amount that was certified as due from the district for the 74258  
calendar year that ends during the fiscal year, but that was not 74259  
deducted because of this paragraph. The superintendent's 74260  
certifications to the Director of Budget and Management during the 74261  
first six months of the calendar year shall reflect such 74262  
additional deduction. 74263

**Section 40.25. EDUCATIONAL SERVICE CENTERS FUNDING** 74264

(A) As used in this section: 74265

(1) "Internet- or computer-based community school" has the 74266  
same meaning as in section 3314.02 of the Revised Code. 74267

(2) "Service center ADM" has the same meaning as in section 74268  
3317.11 of the Revised Code. 74269

(B) Notwithstanding division (F) of section 3317.11 of the 74270  
Revised Code, no funds shall be provided under that division to 74271  
an educational service center in either fiscal year for any pupils 74272  
of a city or exempted village school district unless an agreement 74273  
to provide services under section 3313.843 of the Revised Code was 74274  
entered into by January 1, 1997, except that funds shall be 74275  
provided to an educational service center for any pupils of a city 74276  
school district if the agreement to provide services was entered 74277  
into within one year of the date upon which such district changed 74278  
from a local school district to a city school district. 74279

(C) Notwithstanding any provision of the Revised Code to the 74280  
contrary, an educational service center that sponsors a community 74281  
school under Chapter 3314. of the Revised Code in either fiscal 74282  
year may include the students of that community school in its 74283  
service center ADM for purposes of state funding under division 74284  
(F) of section 3317.11 of the Revised Code, unless the community 74285  
school is an Internet- or computer-based community school. A 74286  
service center shall include the community school students in its 74287  
service center ADM only to the extent that the students are not 74288  
already so included, and only in accordance with guidelines issued 74289  
by the Department of Education. If the students of a community 74290  
school sponsored by an educational service center are included in 74291  
the service center ADM of another educational service center, 74292  
those students shall be removed from the service center ADM of the 74293  
other educational service center and added to the service center 74294  
ADM of the community school's sponsoring service center. The 74295  
General Assembly authorizes this procedure as an incentive for 74296  
educational service centers to take over sponsorship of community 74297  
schools from the State Board of Education as the State Board's 74298  
sponsorship is phased out in accordance with Sub. H.B. 364 of the 74299

124th General Assembly. No student of an Internet- or 74300  
computer-based community school shall be counted in the service 74301  
center ADM of any educational service center. The Department shall 74302  
pay educational service centers under division (F) of section 74303  
3317.11 of the Revised Code for community school students included 74304  
in their service center ADMs under this division only if 74305  
sufficient funds earmarked within appropriation item 200-501, Base 74306  
Cost Funding, for payments under that division remain after first 74307  
paying for students attributable to their local and client school 74308  
districts, in accordance with divisions (B) and (D) of this 74309  
section. 74310

(D) If insufficient funds are earmarked within appropriation 74311  
item 200-501, Base Cost Funding, for payments under division (F) 74312  
of section 3317.11 of the Revised Code and division (C) of this 74313  
section in fiscal year 2004 or fiscal year 2005, the Department 74314  
shall prioritize the distribution of the earmarked funds as 74315  
follows: 74316

(1) The Department shall first distribute to each educational 74317  
service center \$37 for each student in its service center ADM 74318  
attributable to the local school districts within the service 74319  
center's territory. 74320

(2) The Department shall distribute the remaining funds in 74321  
each fiscal year proportionally, on a per-student basis, to each 74322  
educational service center for the students in its service center 74323  
ADM attributable to each city and exempted village school district 74324  
that had entered into an agreement with an educational service 74325  
center for that fiscal year under section 3313.843 of the Revised 74326  
Code by January 1, 1997. 74327

(3) If the Department has paid each service center the full 74328  
\$37 per student under divisions (D)(1) and (2) of this section, 74329  
the Department shall distribute any remaining funds 74330  
proportionally, on a per-student basis, to each service center 74331

that sponsors a community school, other than an Internet- or 74332  
computer-based community school, for the students included in the 74333  
service center ADM under division (C) of this section. These 74334  
payments shall not exceed \$37 per student. 74335

**Section 40.26.** \* For the school year commencing July 1, 2003, 74336  
or the school year commencing July 1, 2004, or both, the 74337  
Superintendent of Public Instruction may waive for the board of 74338  
education of any school district the ratio of teachers to pupils 74339  
in kindergarten through fourth grade required under paragraph 74340  
(A)(3) of rule 3301-35-05 of the Administrative Code if the 74341  
following conditions apply: 74342

(A) The board of education requests the waiver. 74343

(B) After the Department of Education conducts an on-site 74344  
evaluation of the district related to meeting the required ratio, 74345  
the board of education demonstrates to the satisfaction of the 74346  
Superintendent of Public Instruction that providing the facilities 74347  
necessary to meet the required ratio during the district's regular 74348  
school hours with pupils in attendance would impose an extreme 74349  
hardship on the district. 74350

(C) The board of education provides assurances that are 74351  
satisfactory to the Superintendent of Public Instruction that the 74352  
board will act in good faith to meet the required ratio as soon as 74353  
possible. 74354

**Section 40.27.** PRIVATE TREATMENT FACILITY PILOT PROJECT 74355

(A) As used in this section: 74356

(1) The following are "participating residential treatment 74357  
centers": 74358

(a) Private residential treatment facilities that have 74359  
entered into a contract with the Department of Youth Services to 74360

provide services to children placed at the facility by the 74361  
Department and which, in fiscal year 2004 or fiscal year 2005 or 74362  
both, the Department pays through appropriation item 470-401, Care 74363  
and Custody; 74364

(b) Abraxas, in Shelby; 74365

(c) Paint Creek, in Bainbridge; 74366

(d) Act One, in Akron; 74367

(e) Friars Club, in Cincinnati. 74368

(2) "Education program" means an elementary or secondary 74369  
education program or a special education program and related 74370  
services. 74371

(3) "Served child" means any child receiving an education 74372  
program pursuant to division (B) of this section. 74373

(4) "School district responsible for tuition" means a city, 74374  
exempted village, or local school district that, if tuition 74375  
payment for a child by a school district is required under law 74376  
that existed in fiscal year 1998, is the school district required 74377  
to pay that tuition. 74378

(5) "Residential child" means a child who resides in a 74379  
participating residential treatment center and who is receiving an 74380  
educational program under division (B) of this section. 74381

(B) A youth who is a resident of the state and has been 74382  
assigned by a juvenile court or other authorized agency to a 74383  
residential treatment facility specified in division (A) of this 74384  
section shall be enrolled in an approved educational program 74385  
located in or near the facility. Approval of the educational 74386  
program shall be contingent upon compliance with the criteria 74387  
established for such programs by the Department of Education. The 74388  
educational program shall be provided by a school district or 74389  
educational service center, or by the residential facility itself. 74390



Maximum flexibility shall be given to the residential treatment 74391  
facility to determine the provider. In the event that a voluntary 74392  
agreement cannot be reached and the residential facility does not 74393  
choose to provide the educational program, the educational service 74394  
center in the county in which the facility is located shall 74395  
provide the educational program at the treatment center to 74396  
children under twenty-two years of age residing in the treatment 74397  
center. 74398

(C) Any school district responsible for tuition for a 74399  
residential child shall, notwithstanding any conflicting provision 74400  
of the Revised Code regarding tuition payment, pay tuition for the 74401  
child for fiscal year 2004 and fiscal year 2005 to the education 74402  
program provider and in the amount specified in this division. If 74403  
there is no school district responsible for tuition for a 74404  
residential child and if the participating residential treatment 74405  
center to which the child is assigned is located in the city, 74406  
exempted village, or local school district that, if the child were 74407  
not a resident of that treatment center, would be the school 74408  
district where the child is entitled to attend school under 74409  
sections 3313.64 and 3313.65 of the Revised Code, that school 74410  
district, notwithstanding any conflicting provision of the Revised 74411  
Code, shall pay tuition for the child for fiscal year 2004 and 74412  
fiscal year 2005 under this division unless that school district 74413  
is providing the educational program to the child under division 74414  
(B) of this section. 74415

A tuition payment under this division shall be made to the 74416  
school district, educational service center, or residential 74417  
treatment facility providing the educational program to the child. 74418

The amount of tuition paid shall be: 74419

(1) The amount of tuition determined for the district under 74420  
division (A) of section 3317.08 of the Revised Code; 74421

(2) In addition, for any student receiving special education 74422  
pursuant to an individualized education program as defined in 74423  
section 3323.01 of the Revised Code, a payment for excess costs. 74424  
This payment shall equal the actual cost to the school district, 74425  
educational service center, or residential treatment facility of 74426  
providing special education and related services to the student 74427  
pursuant to the student's individualized education program, minus 74428  
the tuition paid for the child under division (C)(1) of this 74429  
section. 74430

A school district paying tuition under this division shall 74431  
not include the child for whom tuition is paid in the district's 74432  
average daily membership certified under division (A) of section 74433  
3317.03 of the Revised Code. 74434

(D) In each of fiscal years 2004 and 2005, the Department of 74435  
Education shall reimburse, from appropriations made for the 74436  
purpose, a school district, educational service center, or 74437  
residential treatment facility, whichever is providing the 74438  
service, that has demonstrated that it is in compliance with the 74439  
funding criteria for each served child for whom a school district 74440  
must pay tuition under division (C) of this section. The amount of 74441  
the reimbursement shall be the formula amount specified in section 74442  
3317.022 of the Revised Code, except that the department shall 74443  
proportionately reduce this reimbursement if sufficient funds are 74444  
not available to pay this amount to all qualified providers. 74445

(E) Funds provided to a school district, educational service 74446  
center, or residential treatment facility under this section shall 74447  
be used to supplement, not supplant, funds from other public 74448  
sources for which the school district, service center, or 74449  
residential treatment facility is entitled or eligible. 74450

(F) The Department of Education shall track the utilization 74451  
of funds provided to school districts, educational service 74452

centers, and residential treatment facilities under this section 74453  
and monitor the effect of the funding on the educational programs 74454  
they provide in participating residential treatment facilities. 74455  
The department shall monitor the programs for educational 74456  
accountability. 74457

**Section 40.28.** SCHOOL DISTRICT PARTICIPATION IN NATIONAL 74458  
ASSESSMENT OF EDUCATION PROGRESS 74459

The General Assembly intends for the Superintendent of Public 74460  
Instruction to provide for school district participation in the 74461  
administration of the National Assessment of Education Progress in 74462  
accordance with section 3301.27 of the Revised Code. Each school 74463  
and school district selected for participation by the 74464  
Superintendent of Public Instruction shall participate. 74465

**Section 40.29.** Notwithstanding division (C)(1) of section 74466  
3313.975 of the Revised Code, in addition to students in 74467  
kindergarten through third grade, initial scholarships may be 74468  
awarded to fourth, fifth, sixth, seventh, and eighth grade 74469  
students in fiscal year 2004 and in fiscal year 2005. 74470

**Section 40.30.** STATEMENT OF STATE SHARE PERCENTAGE FOR BASE 74471  
COST AND PARITY AID FUNDING 74472

Pursuant to division (D)(3) of section 3317.012 of the 74473  
Revised Code, and based on the most recent data available prior to 74474  
the enactment of this act, the General Assembly has determined 74475  
that the state share percentage of base cost and parity aid 74476  
funding for the update year (fiscal year 2002) is 49.0%. This is 74477  
the target percentage for fiscal year 2004 and fiscal year 2005 74478  
that the General Assembly shall use to fulfill its obligation 74479  
under division (D)(4) of section 3317.012 of the Revised Code. 74480

Pursuant to division (D)(4) of section 3317.012 of the 74481

Revised Code, and based on the most recent data available prior to 74482  
the enactment of this act, the General Assembly has determined 74483  
that the state share percentage of base cost and parity aid 74484  
funding for fiscal year 2004 is 46.5% and for fiscal year 2005 is 74485  
48.6%. This determination fulfills the General Assembly's 74486  
obligation under that division for fiscal year 2004 and fiscal 74487  
year 2005. 74488

**Section 40.31. DEPARTMENT OF EDUCATION APPROPRIATION 74489**  
TRANSFERS FOR STUDENT ASSESSMENT 74490

In fiscal year 2004 and fiscal year 2005, if the 74491  
Superintendent of Public Instruction determines that additional 74492  
funds are needed to fully fund the requirements of Am. Sub. S.B. 1 74493  
of the 124th General Assembly for assessments of student 74494  
performance, the Superintendent of Public Instruction may 74495  
recommend the reallocation of unspent and unencumbered 74496  
appropriations within the Department of Education to the General 74497  
Revenue Fund appropriation item 200-437, Student Assessment, to 74498  
the Director of Budget and Management. If the Director of Budget 74499  
and Management determines that such a reallocation is required, 74500  
the Director of Budget and Management may transfer unspent and 74501  
unencumbered funds within the Department of Education as necessary 74502  
to appropriation item 200-437, Student Assessment. 74503

**Section 40.34a.** The amendments by this act to division (C)(4) 74504  
of section 3313.981, division (B)(2)(e) of section 3314.08, 74505  
division (A)(4) of section 3317.023, and division (A)(3) of 74506  
section 3317.03 of the Revised Code shall not apply in fiscal year 74507  
2004. In fiscal year 2004, the Department of Education shall 74508  
implement those divisions as if they accounted for one-fourth of 74509  
joint vocational school district students, as they did prior to 74510  
the effective date of those amendments. Those divisions, as 74511  
amended by this act to reduce the percentage of joint vocational 74512

school district students accounted for from one-fourth to ten per cent, shall apply 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 students in fiscal year 2001. If the difference is a negative number, the amount of the subsidy shall be zero.

(D) The amount of any subsidy paid to a community school under this section shall not be deducted from any moneys calculated under Chapter 3317. of the Revised Code for payment to a school district in which any of its students are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

The amount of any subsidy paid to a community school under 74543  
this section shall be paid from the amount appropriated to the 74544  
Department of Education in appropriation item 200-501, Base Cost 74545  
Funding. 74546

**Section 40.36.** (A) As used in this section: 74547

(1) "Entitled to attend school" means entitled to attend 74548  
school in a school district under section 3313.64 and 3313.65 of 74549  
the Revised Code. 74550

(2) "Formula ADM" and "category six special education ADM" 74551  
have the same meanings as in section 3317.02 of the Revised Code. 74552

(3) "Individualized education program" has the same meaning 74553  
as in section 3323.01 of the Revised Code. 74554

(4) "Parent" has the same meaning as in section 3313.64 of 74555  
the Revised Code. 74556

(5) "Qualified special education child" is a child for whom 74557  
all of the following conditions apply: 74558

(a) The school district in which the child is entitled to 74559  
attend school has identified the child as autistic; 74560

(b) The school district in which the child is entitled to 74561  
attend school has developed an individualized education program 74562  
under Chapter 3323. of the Revised Code for the child; 74563

(c) The child either: 74564

(i) Was enrolled in the school district in which the child is 74565  
entitled to attend school in any grade from preschool through 74566  
twelve in the school year prior to the year in which a scholarship 74567  
under this section is first sought for the child; 74568

(ii) Is eligible to enter school in any grade preschool 74569  
through twelve in the school district in which the child is 74570  
entitled to attend school in the school year in which a 74571

scholarship under this section is first sought for the child. 74572

(6) "Registered private provider" means a nonpublic school or 74573  
other nonpublic entity that has been approved by the Department of 74574  
Education to participate in the program established under this 74575  
section. 74576

(B) There is hereby established the Pilot Project Special 74577  
Education Scholarship Program. Under the program, in fiscal years 74578  
2004 and 2005, the Department of Education shall pay a scholarship 74579  
to the parent of each qualified special education child upon 74580  
application of that parent pursuant to procedures and deadlines 74581  
established by rule of the State Board of Education. Each 74582  
scholarship shall be used only to pay tuition for the child on 74583  
whose behalf the scholarship is awarded to attend a special 74584  
education program that implements the child's individualized 74585  
education program and that is operated by a school district other 74586  
than the school district in which the child is entitled to attend 74587  
school or by another public entity, to either of which under law 74588  
the parent is required to pay tuition on behalf of the child, or 74589  
by a registered private provider. Each scholarship shall be in an 74590  
amount not to exceed the lesser of the tuition charged for the 74591  
child by the special education program or fifteen thousand 74592  
dollars. The purpose of the scholarship is to permit the parent of 74593  
a qualified special education child the choice to send the child 74594  
to a special education program, instead of, or in addition to, the 74595  
one operated by or for the school district in which the child is 74596  
entitled to attend school, to receive the services prescribed in 74597  
the child's individualized education program. A child attending a 74598  
special education program with a scholarship under this section 74599  
shall continue to be entitled to transportation to and from that 74600  
program in the manner prescribed by law. 74601

(C)(1) Notwithstanding anything to the contrary in the 74602  
Revised Code, a child for whom a scholarship is awarded under this 74603

section shall be counted in the formula ADM and the category six 74604  
special education ADM of the district in which the child is 74605  
entitled to attend school and not in the formula ADM and the 74606  
category six special education ADM of any other school district. 74607

(2) In each fiscal year, the Department shall deduct from the 74608  
amounts paid to each school district under Chapter 3317. of the 74609  
Revised Code, and, if necessary, sections 321.14 and 323.156 of 74610  
the Revised Code, the aggregate amount of scholarships awarded 74611  
under this section for qualified special education children 74612  
included in the formula ADM and category six special education ADM 74613  
of that school district as provided in division (C)(1) of this 74614  
section. The scholarships deducted shall be considered as an 74615  
approved special education and related services expense for the 74616  
purpose of the school district's compliance with division (C)(5) 74617  
of section 3317.022 of the Revised Code. 74618

(3) From time to time, the Department shall make a payment to 74619  
the parent of each qualified special education child for whom a 74620  
scholarship has been awarded under this section. The scholarship 74621  
amount shall be proportionately reduced in the case of any such 74622  
child who is not enrolled in the special education program for 74623  
which a scholarship was awarded under this section for the entire 74624  
school year. 74625

(D) A scholarship shall not be paid to a parent for payment 74626  
of tuition owed to a nonpublic entity unless that entity is a 74627  
registered private provider. The Department shall approve entities 74628  
that meet the standards established by rule of the State Board for 74629  
the program established under this section. (E) The State Board 74630  
shall adopt rules in accordance with Chapter 119. of the Revised 74631  
Code prescribing procedures necessary to implement this section, 74632  
including, but not limited to, procedures and deadlines for 74633  
parents to apply for scholarships, standards for registered 74634  
private providers, and procedures for approval of entities as 74635



registered private providers. The Board shall adopt the rules so 74636  
that the program established under this section is operational by 74637  
October 1, 2003. 74638

**Section 40.37.** A) Not later than January 31, 2004, the 74639  
department of education shall recommend to the general assembly, 74640  
in consultation with stakeholders, plans for an Ohio Regional 74641  
Education Delivery System to provide services and technical 74642  
assistance to school districts. The recommendations shall address 74643  
how the system should provide services currently provided by 74644  
educational service centers, regional professional development 74645  
centers, special education regional resource centers, area media 74646  
centers, school improvement facilitators, Ohio SchoolNet regional 74647  
services, data acquisition sites, educational technology centers, 74648  
and other regional service providers. The department shall also 74649  
recommend that the system provide services and technical 74650  
assistance to chartered nonpublic schools to assist these schools 74651  
in meeting Ohio's statutory and administrative code provisions 74652  
applicable to such schools. However, the recommendations shall 74653  
specify that in providing services to chartered nonpublic schools, 74654  
the system is not required to create additional services or 74655  
technical assistance beyond those provided to school districts. 74656

(B) The regional service centers recommended under the Ohio 74657  
Regional Education Delivery System shall be distributed 74658  
geographically throughout the state. 74659

(C) The department, in consultation with stakeholders, shall 74660  
recommend an accountability system for the Ohio Regional Education 74661  
Delivery System. The recommended accountability system shall 74662  
include minimum standards for operation and the provision of 74663  
services. It shall also include benchmarks against performance 74664  
measures based on each of the following: 74665

(1) Student achievement; 74666

(2) The effectiveness and efficiency of service delivery;	74667
(3) The quality of implementation of state initiatives;	74668
(4) Satisfaction expressed by school districts and other entities that use the Ohio Regional Education Delivery System with the quality of the system.	74669 74670 74671
<b>Section 40.38.</b> (A) There is hereby created the Head Start Partnership Study Council consisting of the following seventeen members:	74672 74673 74674
(1) Two employees of the Department of Job and Family Services appointed by the Director of Job and Family Services;	74675 74676
(2) Two employees of the Department of Education appointed by the Superintendent of Public Instruction;	74677 74678
(3) 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;	74679 74680 74681
(4) Three members of the Senate, not more two of whom are members of the same political party, appointed by the President of the Senate;	74682 74683 74684
(5) Two representatives of Head Start agencies appointed by the Ohio Head Start Association;	74685 74686
(6) Two representatives of child care providers appointed by the Ohio Association of Child Care Providers;	74687 74688
(7) One representative appointed by the Ohio Day Care Council;	74689 74690
(8) One representative appointed by the County Commissioner's Association of Ohio;	74691 74692
(9) One representative appointed by the Association of Directors of County Departments of Job and Family Services.	74693 74694

Initial appointments of members shall be made not later than 74695  
September 1, 2003. Vacancies in any of those appointments shall be 74696  
filled in the same manner as original appointments. 74697

The Speaker of the House of Representatives and the President 74698  
of the Senate jointly shall appoint the chairperson of the 74699  
Council. 74700

Members of the Council shall serve without compensation. 74701

(B) In fiscal year 2004, the Council shall advise the 74702  
Departments of Education and Job and Family Services in planning 74703  
for the implementation of the Title IV-A Head Start Plus Program 74704  
as established under sections 3301.33 and 3301.35 of the Revised 74705  
Code and shall report to the General Assembly on the plans for 74706  
that program by December 31, 2003. 74707

(C) In fiscal year 2005, the Council shall monitor the 74708  
implementation of the Title IV-A Head Start Plus Program as 74709  
established under sections 3301.33 and 3301.35 of the Revised Code 74710  
and provide advice to the Departments of Education and Job and 74711  
Family Services in that implementation. 74712

(D) Unless reauthorized by the General Assembly, the Council 74713  
shall cease to exist on July 1, 2005. 74714

**Section 40.39.** (A) In the 2004-2005 and 2005-2006 school 74715  
years, before a student identified with disabilities may begin 74716  
receiving services for the first time under an individualized 74717  
education program, as defined in section 3323.01 of the Revised 74718  
Code, the school district in which that student is enrolled shall 74719  
require the student to undergo a comprehensive eye examination 74720  
performed either by an optometrist licensed under Chapter 4725. of 74721  
the Revised Code or by a physician authorized under Chapter 4731. 74722  
of the Revised Code to practice medicine and surgery or 74723  
osteopathic medicine and surgery who is comprehensively trained 74724

and educated in the treatment of the human eye, eye disease, or 74725  
 comprehensive vision services. 74726

(B) The superintendent of each school district or the 74727  
 superintendent's designee may determine fulfillment of the 74728  
 requirement prescribed in division (A) of this section based on 74729  
 any special circumstances of the student, the student's parent, 74730  
 guardian, or family that may prevent the student from undergoing 74731  
 the eye examination prior to beginning special education services. 74732

(C) Neither the state nor any school district shall be 74733  
 responsible for paying for the eye examination required by this 74734  
 section. 74735

(D) The Director of Health shall, in accordance with Chapter 74736  
 119. of the Revised Code, adopt a rule that defines for purposes 74737  
 of this section "comprehensively trained and educated in the 74738  
 treatment of the human eye, eye disease, or comprehensive vision 74739  
 services" and shall adopt any other rules necessary for the 74740  
 implementation of this section. 74741

**Section 41. OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK 74742**  
 COMMISSION 74743

General Revenue Fund 74744

GRF 374-100 Personal Services \$ 1,300,000 \$ 1,300,000 74745

GRF 374-200 Maintenance \$ 800,000 \$ 800,000 74746

GRF 374-300 Equipment \$ 97,500 \$ 97,500 74747

GRF 374-401 Statehouse News Bureau \$ 185,508 \$ 185,508 74748

GRF 374-402 Ohio Government \$ 762,146 \$ 762,146 74749

Telecommunications

Studio

GRF 374-403 Ohio SONET \$ 2,000,000 \$ 2,000,000 74750

GRF 374-404 Telecommunications \$ 3,962,199 \$ 3,864,269 74751

Operating Subsidy

TOTAL GRF General Revenue Fund \$ 9,107,353 \$ 9,009,423 74752

General Services Fund Group				74753
4F3 374-603 Affiliate Services	\$	3,067,447	\$ 3,067,447	74754
4T2 374-605 Government	\$	150,000	\$ 150,000	74755
Television/Telecommunications				
Operating				
TOTAL GSF General Services				74756
Fund Group	\$	3,217,447	\$ 3,217,447	74757
TOTAL ALL BUDGET FUND GROUPS	\$	12,324,800	\$ 12,226,870	74758
STATEHOUSE NEWS BUREAU				74759
The foregoing appropriation item 374-401, Statehouse News				74760
Bureau, shall be used solely to support the operations of the Ohio				74761
Statehouse News Bureau.				74762
OHIO GOVERNMENT TELECOMMUNICATIONS STUDIO				74763
The foregoing appropriation item 374-402, Ohio Government				74764
Telecommunications Studio, shall be used solely to support the				74765
operations of the Ohio Government Telecommunications Studio.				74766
OHIO SONET				74767
The foregoing appropriation item 374-403, Ohio SONET, shall				74768
be used by the Ohio Educational Telecommunications Network				74769
Commission to pay monthly operating expenses and maintenance of				74770
the television and radio transmission infrastructure.				74771
TELECOMMUNICATIONS OPERATING SUBSIDY				74772
The foregoing appropriation item 374-404, Telecommunications				74773
Operating Subsidy, shall be distributed by the Ohio Educational				74774
Telecommunications Network Commission to Ohio's qualified public				74775
educational television stations, radio reading services, and				74776
educational radio stations to support their operations. The funds				74777
shall be distributed pursuant to an allocation developed by the				74778
Ohio Educational Telecommunications Network Commission.				74779

<b>Section 42. ELC OHIO ELECTIONS COMMISSION</b>				74780
General Revenue Fund				74781
GRF 051-321 Operating Expenses	\$	294,857	\$ 294,857	74782
TOTAL GRF General Revenue Fund	\$	294,857	\$ 294,857	74783
State Special Revenue Fund Group				74784
4P2 051-601 Ohio Elections				74785
Commission Fund	\$	312,716	\$ 321,766	74786
TOTAL SSR State Special				74787
Revenue Fund Group	\$	312,716	\$ 321,766	74788
TOTAL ALL BUDGET FUND GROUPS	\$	607,573	\$ 616,623	74789
<b>Section 43. FUN STATE BOARD OF EMBALMERS AND FUNERAL</b>				74791
DIRECTORS				74792
General Services Fund Group				74793
4K9 881-609 Operating Expenses	\$	563,639	\$ 594,870	74794
TOTAL GSF General Services				74795
Fund Group	\$	563,639	\$ 594,870	74796
TOTAL ALL BUDGET FUND GROUPS	\$	563,639	\$ 594,870	74797
<b>Section 44. ERB STATE EMPLOYMENT RELATIONS BOARD</b>				74799
General Revenue Fund				74800
GRF 125-321 Operating Expenses	\$	3,268,338	\$ 3,268,338	74801
TOTAL GRF General Revenue Fund	\$	3,268,338	\$ 3,268,338	74802
General Services Fund Group				74803
572 125-603 Training and	\$	75,541	\$ 75,541	74804
Publications				
TOTAL GSF General Services				74805
Fund Group	\$	75,541	\$ 75,541	74806
TOTAL ALL BUDGET FUND GROUPS	\$	3,343,879	\$ 3,343,879	74807
<b>Section 45. ENG STATE BOARD OF ENGINEERS AND SURVEYORS</b>				74809

General Services Fund Group				74810
4K9 892-609 Operating Expenses	\$	999,150	\$ 1,041,369	74811
TOTAL GSF General Services				74812
Fund Group	\$	999,150	\$ 1,041,369	74813
TOTAL ALL BUDGET FUND GROUPS	\$	999,150	\$ 1,041,369	74814
 <b>Section 46. EPA ENVIRONMENTAL PROTECTION AGENCY</b>				74816
General Revenue Fund				74817
GRF 715-403 Clean Ohio	\$	788,985	\$ 788,985	74818
GRF 715-501 Local Air Pollution	\$	1,119,878	\$ 1,091,882	74819
Control				
GRF 717-321 Surface Water	\$	9,333,376	\$ 9,358,950	74820
GRF 718-321 Groundwater	\$	1,195,001	\$ 1,163,554	74821
GRF 719-321 Air Pollution Control	\$	2,543,260	\$ 2,543,260	74822
GRF 721-321 Drinking Water	\$	2,713,032	\$ 2,713,032	74823
GRF 723-321 Hazardous Waste	\$	110,184	\$ 107,284	74824
GRF 724-321 Pollution Prevention	\$	765,137	\$ 745,002	74825
GRF 725-321 Laboratory	\$	1,290,237	\$ 1,293,971	74826
GRF 726-321 Corrective Actions	\$	1,253,593	\$ 1,255,080	74827
TOTAL GRF General Revenue Fund	\$	21,112,683	\$ 21,061,000	74828
General Services Fund Group				74829
199 715-602 Laboratory Services	\$	1,042,081	\$ 1,045,654	74830
219 715-604 Central Support	\$	15,239,297	\$ 15,544,407	74831
Indirect				
4A1 715-640 Operating Expenses	\$	3,308,758	\$ 3,369,731	74832
TOTAL GSF General Services				74833
Fund Group	\$	19,590,136	\$ 19,959,792	74834
Federal Special Revenue Fund Group				74835
3F2 715-630 Revolving Loan Fund -	\$	80,000	\$ 80,000	74836
Operating				
3F3 715-632 Fed Supported Cleanup	\$	2,792,648	\$ 2,326,434	74837
and Response				

3F4	715-633	Water Quality Management	\$	737,850	\$	712,850	74838
3F5	715-641	Nonpoint Source Pollution Management	\$	7,090,002	\$	7,155,000	74839
3J1	715-620	Urban Stormwater	\$	850,000	\$	956,001	74840
3K2	715-628	Clean Water Act 106	\$	4,125,992	\$	4,125,992	74841
3K4	715-634	DOD Monitoring and Oversight	\$	1,462,173	\$	1,450,333	74842
3K6	715-639	Remedial Action Plan	\$	416,000	\$	385,001	74843
3N1	715-655	Pollution Prevention Grants	\$	10,172	\$	0	74844
3N4	715-657	DOE Monitoring and Oversight	\$	3,362,932	\$	3,427,442	74845
3V7	715-606	Agencywide Grants	\$	100,268	\$	0	74846
352	715-611	Wastewater Pollution	\$	252,000	\$	265,002	74847
353	715-612	Public Water Supply	\$	2,480,989	\$	2,484,114	74848
354	715-614	Hazardous Waste Management - Federal	\$	4,195,192	\$	4,203,891	74849
357	715-619	Air Pollution Control - Federal	\$	5,447,334	\$	5,599,501	74850
362	715-605	Underground Injection Control - Federal	\$	101,874	\$	101,874	74851
TOTAL FED	Federal	Special Revenue					74852
Fund Group			\$	33,505,426	\$	33,273,435	74853
State	Special Revenue	Fund Group					74854
3T3	715-669	Drinking Water SRF	\$	3,631,132	\$	3,716,777	74855
4J0	715-638	Underground Injection Control	\$	379,488	\$	394,385	74856
4K2	715-648	Clean Air - Non Title V	\$	3,092,801	\$	3,370,002	74857
4K3	715-649	Solid Waste	\$	14,286,500	\$	14,698,987	74858
4K4	715-650	Surface Water Protection	\$	9,380,180	\$	9,380,181	74859



4K5	715-651	Drinking Water Protection	\$	6,294,334	\$	6,255,946	74860
4P5	715-654	Cozart Landfill	\$	146,792	\$	149,728	74861
4R5	715-656	Scrap Tire Management	\$	5,800,000	\$	6,000,000	74862
4R9	715-658	Voluntary Action Program	\$	603,435	\$	795,671	74863
4T3	715-659	Clean Air - Title V Permit Program	\$	16,950,003	\$	16,650,001	74864
4U7	715-660	Construction & Demolition Debris	\$	220,000	\$	220,000	74865
5H4	715-664	Groundwater Support	\$	1,768,661	\$	1,797,036	74866
5N2	715-613	Dredge and Fill	\$	30,000	\$	30,000	74867
5S1	715-607	Clean Ohio - Operating	\$	206,735	\$	208,174	74868
500	715-608	Immediate Removal Special Account	\$	475,024	\$	482,000	74869
503	715-621	Hazardous Waste Facility Management	\$	11,051,591	\$	11,465,671	74870
503	715-662	Hazardous Waste Facility Board	\$	566,350	\$	576,619	74871
505	715-623	Hazardous Waste Cleanup	\$	10,862,544	\$	11,557,987	74872
505	715-674	Clean Ohio Environmental Review	\$	999,896	\$	1,179,249	74873
541	715-670	Site Specific Cleanup	\$	344,448	\$	345,075	74874
542	715-671	Risk Management Reporting	\$	142,087	\$	146,188	74875
6A1	715-645	Environmental Education	\$	1,500,000	\$	1,500,000	74876
602	715-626	Motor Vehicle Inspection and Maintenance	\$	1,444,464	\$	1,437,398	74877
644	715-631	ER Radiological Safety	\$	281,424	\$	286,114	74878
660	715-629	Infectious Waste	\$	160,000	\$	160,000	74879

		Management				
676	715-642	Water Pollution	\$	4,858,798	\$	4,964,625 74880
		Control Loan				
		Administration				
678	715-635	Air Toxic Release	\$	314,081	\$	210,662 74881
679	715-636	Emergency Planning	\$	2,798,648	\$	2,828,647 74882
696	715-643	Air Pollution Control	\$	750,002	\$	750,000 74883
		Administration				
699	715-644	Water Pollution	\$	625,000	\$	625,000 74884
		Control Administration				
TOTAL SSR State Special Revenue			\$	99,964,418	\$	102,182,123 74885
Fund Group						
TOTAL ALL BUDGET FUND GROUPS			\$	174,172,663	\$	176,476,350 74886
		CENTRAL SUPPORT INDIRECT				74887
		Notwithstanding any other provision of law to the contrary,				74888
		the Director of Environmental Protection, with the approval of the				74889
		Director of Budget and Management, shall utilize a methodology for				74890
		determining each division's payments into the Central Support				74891
		Indirect Fund (Fund 219). The methodology used shall contain the				74892
		characteristics of administrative ease and uniform application.				74893
		Payments to the Central Support Indirect Fund (Fund 219) shall be				74894
		made using an intrastate transfer voucher.				74895
		CLEAN OHIO - OPERATING				74896
		The foregoing appropriation item 715-607, Clean Ohio -				74897
		Operating, shall be used by the Ohio Environmental Protection				74898
		Agency in administering sections 122.65 to 122.658 of the Revised				74899
		Code.				74900
		<b>Section 47. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION</b>				74901
		General Revenue Fund				74902
GRF 172-321		Operating Expenses	\$	437,131	\$	439,109 74903

TOTAL GRF General Revenue Fund	\$	437,131	\$	439,109	74904
TOTAL ALL BUDGET FUND GROUPS	\$	437,131	\$	439,109	74905

**Section 48. ETH OHIO ETHICS COMMISSION** 74907

General Revenue Fund					74908
GRF 146-321 Operating Expenses	\$	1,286,869	\$	1,351,213	74909
TOTAL GRF General Revenue Fund	\$	1,286,869	\$	1,351,213	74910
General Services Fund Group					74911
4M6 146-601 Operating Expenses	\$	409,543	\$	383,543	74912
TOTAL GSF General Services					74913
Fund Group	\$	409,543	\$	383,543	74914
TOTAL ALL BUDGET FUND GROUPS	\$	1,696,412	\$	1,734,756	74915

**Section 49. EXP OHIO EXPOSITIONS COMMISSION** 74917

General Revenue Fund					74918
GRF 723-403 Junior Fair Subsidy	\$	465,412	\$	465,412	74919
TOTAL GRF General Revenue Fund	\$	465,412	\$	465,412	74920
State Special Revenue Fund Group					74921
4N2 723-602 Ohio State Fair	\$	520,000	\$	520,000	74922
Harness Racing					
506 723-601 Operating Expenses	\$	13,211,481	\$	13,643,315	74923
640 723-603 State Fair Reserve	\$	125,000	\$	0	74924
TOTAL SSR State Special Revenue					74925
Fund Group	\$	13,856,481	\$	14,163,315	74926
TOTAL ALL BUDGET FUND GROUPS	\$	14,321,893	\$	14,628,727	74927

**STATE FAIR RESERVE** 74928

The foregoing appropriation item 723-603, State Fair Reserve,	74929
shall serve as a budget reserve fund for the Ohio Expositions	74930
Commission in the event of a significant decline in attendance due	74931
to inclement weather or extraordinary circumstances during the	74932
Ohio State Fair resulting in a loss of revenue. The State Fair	74933

Reserve may be used by the Ohio Expositions Commission to pay 74934  
bills resulting from the Ohio State Fair only if all the following 74935  
criteria are met: 74936

(A) Admission revenues for the 2003 Ohio State Fair are less 74937  
than \$2,542,500 or admission revenues for the 2004 Ohio State Fair 74938  
are less than \$2,619,000 due to inclement weather or extraordinary 74939  
circumstances. These amounts are ninety per cent of the projected 74940  
admission revenues for each year. 74941

(B) The Ohio Expositions Commission declares a state of 74942  
fiscal exigency and requests release of funds by the Director of 74943  
Budget and Management. 74944

(C) The Director of Budget and Management releases the funds. 74945  
The Director of Budget and Management may approve or disapprove 74946  
the request for release of funds, may increase or decrease the 74947  
amount of release, and may place such conditions as the director 74948  
considers necessary on the use of the released funds. The Director 74949  
of Budget and Management may transfer appropriation authority from 74950  
fiscal year 2004 to fiscal year 2005 as needed. 74951

In the event that the Ohio Expositions Commission faces a 74952  
temporary cash shortage that will preclude it from meeting current 74953  
obligations, the Commission may request the Director of Budget and 74954  
Management to approve use of the State Fair Reserve to meet those 74955  
obligations. The request shall include a plan describing how the 74956  
Commission will eliminate the cash shortage. If the Director of 74957  
Budget and Management approves the expenditures, the Commission 74958  
shall reimburse Fund 640 by the thirtieth day of June of that same 74959  
fiscal year through an intrastate transfer voucher. The amount 74960  
reimbursed is hereby appropriated. 74961

**Section 50. GOV OFFICE OF THE GOVERNOR** 74962

General Revenue Fund 74963

GRF 040-321 Operating Expenses	\$	4,112,358	\$	4,235,726	74964
GRF 040-403 Federal Relations	\$	510,000	\$	510,000	74965
GRF 040-408 Office of Veterans' Affairs	\$	276,723	\$	285,025	74966
TOTAL GRF General Revenue Fund	\$	4,899,081	\$	5,030,751	74967
General Services Fund Group					74968
412 040-607 Federal Relations	\$	500,000	\$	500,000	74969
TOTAL GSF General Services Fund Group	\$	500,000	\$	500,000	74970
TOTAL ALL BUDGET FUND GROUPS	\$	5,399,081	\$	5,530,751	74971
APPOINTMENT OF LEGAL COUNSEL FOR THE GOVERNOR					74972
The Governor may expend a portion of the foregoing appropriation item 040-321, Operating Expenses, to hire or appoint legal counsel to be used in proceedings involving the Governor in the Governor's official capacity or the Governor's office only, without the approval of the Attorney General, notwithstanding sections 109.02 and 109.07 of the Revised Code.					74973 74974 74975 74976 74977 74978
FEDERAL RELATIONS					74979
A portion of the foregoing appropriation items 040-403, Federal Relations, and 040-607, Federal Relations, may be used to support Ohio's membership in national or regional associations.					74980 74981 74982
The Office of the Governor may charge any state agency of the executive branch using an intrastate transfer voucher such amounts necessary to defray the costs incurred for the conduct of federal relations associated with issues that can be attributed to the agency. Amounts collected shall be deposited to the Office of the Governor Federal Relations Fund (Fund 412).					74983 74984 74985 74986 74987 74988
<b>Section 51. DOH DEPARTMENT OF HEALTH</b>					74989
General Revenue Fund					74990
GRF 440-407 Animal Borne Disease	\$	2,690,101	\$	2,690,101	74991

	and Prevention				
GRF 440-412	Cancer Incidence Surveillance System	\$	1,038,815	\$	1,066,616 74992
GRF 440-413	Healthy Communities	\$	4,139,009	\$	4,139,009 74993
GRF 440-416	Child and Family Health Services	\$	8,984,972	\$	8,984,972 74994
GRF 440-418	Immunizations	\$	8,431,975	\$	8,600,615 74995
GRF 440-419	Sexual Assault Prevention	\$	35,899	\$	35,899 74996
GRF 440-444	AIDS Prevention and Treatment	\$	7,589,816	\$	7,589,816 74997
GRF 440-446	Infectious Disease Prevention	\$	439,330	\$	439,330 74998
GRF 440-451	Lab and Public Health Prevention Programs	\$	6,085,250	\$	6,085,250 74999
GRF 440-452	Child and Family Health Services Match	\$	1,024,017	\$	1,024,017 75000
GRF 440-453	Health Care Quality Assurance	\$	10,453,728	\$	10,453,728 75001
GRF 440-454	Local Environmental Health	\$	1,087,654	\$	1,122,654 75002
GRF 440-459	Help Me Grow	\$	9,861,089	\$	9,861,089 75003
GRF 440-461	Center for Vital and Health Stats	\$	3,579,790	\$	3,579,790 75004
GRF 440-504	Poison Control Network	\$	388,000	\$	388,000 75005
GRF 440-505	Medically Handicapped Children	\$	6,462,257	\$	6,462,738 75006
GRF 440-507	Targeted Health Care Services Over 21	\$	731,023	\$	731,023 75007
GRF 440-508	Migrant Health	\$	91,301	\$	91,301 75008
TOTAL GRF	General Revenue Fund	\$	73,114,026	\$	73,345,948 75009
	General Services Fund Group				75010
4K9 440-XXX	Occupational Therapy,	\$	771,391	\$	801,480 75011

		Physical Therapy, and Athletic Trainers Board					
142	440-618	General Operations -	\$	1,201,059	\$	1,290,530	75012
		General Services Fund					
211	440-613	Central Support	\$	26,149,512	\$	26,276,178	75013
		Indirect Costs					
473	440-622	Lab Operating Expenses	\$	4,154,045	\$	4,154,045	75014
683	440-633	Employee Assistance	\$	1,192,234	\$	1,192,214	75015
		Program					
698	440-634	Nurse Aide Training	\$	170,000	\$	170,000	75016
		TOTAL GSF General Services					75017
		Fund Group	\$	33,638,241	\$	33,884,447	75018
		Federal Special Revenue Fund Group					75019
320	440-601	Maternal Child Health	\$	34,451,205	\$	35,136,169	75020
		Block Grant					
387	440-602	Preventive Health	\$	8,200,000	\$	8,200,000	75021
		Block Grant					
389	440-604	Women, Infants, and	\$	210,000,000	\$	220,000,000	75022
		Children					
391	440-606	Medicaid/Medicare	\$	26,294,274	\$	26,820,159	75023
392	440-618	General Operations -	\$	114,474,764	\$	115,319,323	75024
		Federal Fund					
		TOTAL FED Federal Special Revenue					75025
		Fund Group	\$	393,420,243	\$	405,475,651	75026
		State Special Revenue Fund Group					75027
4D6	440-608	Genetics Services	\$	2,300,000	\$	2,300,000	75028
4F9	440-610	Sickle Cell Disease	\$	1,035,344	\$	1,035,344	75029
		Control					
4G0	440-636	Heirloom Birth	\$	5,000	\$	5,000	75030
		Certificate					
4G0	440-637	Birth Certificate	\$	5,000	\$	5,000	75031

		Surcharge				
4L3	440-609	Miscellaneous Expenses	\$	256,082	\$	144,119 75032
4T4	440-603	Child Highway Safety	\$	233,894	\$	233,894 75033
4V6	440-641	Save Our Sight	\$	1,733,327	\$	1,767,994 75034
470	440-618	General Operations -	\$	14,454,867	\$	15,953,072 75035
		State Special Revenue				
471	440-619	Certificate of Need	\$	475,000	\$	483,572 75036
477	440-627	Medically Handicapped	\$	4,640,498	\$	4,733,008 75037
		Children Audit				
5B5	440-616	Quality, Monitoring, and Inspection	\$	838,479	\$	838,479 75038
5C0	440-615	Alcohol Testing and Permit	\$	1,455,405	\$	1,455,405 75039
5D6	440-620	Second Chance Trust	\$	887,018	\$	825,951 75040
5G4	440-639	Adoption Services	\$	20,000	\$	20,000 75041
5E1	440-624	Health Services	\$	688,321	\$	0 75042
5L1	440-623	Nursing Facility	\$	586,153	\$	617,517 75043
		Technical Assistance Program				
610	440-626	Radiation Emergency Response	\$	923,315	\$	923,315 75044
666	440-607	Medically Handicapped Children - County Assessments	\$	14,320,687	\$	14,320,687 75045
TOTAL	SSR	State Special Revenue				75046
Fund Group			\$	44,858,390	\$	45,662,357 75047
Holding Account	Redistribution	Fund Group				75048
R14	440-631	Vital Statistics	\$	70,000	\$	70,000 75049
R48	440-625	Refunds, Grants	\$	20,400	\$	20,400 75050
		Reconciliation, and Audit Settlements				
TOTAL	090	Holding Account				75051
Redistribution	Fund Group		\$	90,400	\$	90,400 75052





violence in relationships; and prenatal care or referral for 75084  
prenatal care. These health care services shall be provided by 75085  
doctors, nurses, medical assistants, counselors, and social 75086  
workers in a medical clinic setting. 75087

The Director of Health shall adopt rules in accordance with 75088  
Chapter 119. of the Revised Code specifying reasonable eligibility 75089  
standards that must be met to receive the state funding and 75090  
provide reasonable methods by which a grantee wishing to be 75091  
eligible for federal funding may comply with these requirements 75092  
for state funding without losing its eligibility for federal 75093  
funding. Grant applicants need not provide all of the listed 75094  
women's health services and no applicant will be discriminated 75095  
against in the process of awarding these grant funds because the 75096  
applicant does not provide all of the services listed. 75097

In distributing these grant funds, the Director of Health 75098  
shall give priority to grant requests from local departments of 75099  
health for women's health services to be provided directly by 75100  
personnel of the local department of health. 75101

Of the foregoing appropriation item 440-416, Child and Family 75102  
Health Services, not more than \$270,000 shall be used in each 75103  
fiscal year for the OPTIONS dental care access program. 75104

Of the foregoing appropriation item 440-416, Child and Family 75105  
Health Services, not more than \$900,000 in each fiscal year shall 75106  
be used by federally qualified health centers and federally 75107  
designated look-alikes to provide services to uninsured low-income 75108  
persons. 75109

Of the foregoing appropriation item 440-416, Child and Family 75110  
Health Services, \$500,000 in each fiscal year shall be used for 75111  
abstinence-only education. The Director of Health shall develop 75112  
guidelines for the establishment of abstinence programs for 75113  
teenagers with the purpose of decreasing unplanned pregnancies and 75114

abortion. The guidelines shall be developed pursuant to Title V of 75115  
the "Social Security Act," 42 U.S.C. 510, and shall include, but 75116  
are not limited to, advertising campaigns and direct training in 75117  
schools and other locations. 75118

Of the foregoing appropriation item 440-416, Child and Family 75119  
Health Services, \$30,000 in each fiscal year shall be allocated to 75120  
the Jewish Family Service of Cleveland, \$10,000 in each fiscal 75121  
year shall be allocated to the Jewish Family Service of 75122  
Cincinnati, and \$10,000 in each fiscal year shall be allocated to 75123  
the Jewish Family Services of Columbus for interpreters for health 75124  
care. 75125

Of the foregoing appropriation item 440-416, Child and Family 75126  
Health Services, \$25,000 in each fiscal year shall be allocated to 75127  
Clermont County's Comprehensive Community Suicide Prevention 75128  
Program. 75129

Of the foregoing appropriation item 440-416, Child and Family 75130  
Health Services, \$25,000 in each fiscal year shall be allocated to 75131  
the Health Education Center in Cincinnati. 75132

Of the foregoing appropriation item 440-416, Child and Family 75133  
Health Services, \$62,500 in each fiscal year shall be allocated to 75134  
the Cincinnati YWCA Hippy. 75135

Of the foregoing appropriation item 440-416, Child and Family 75136  
Health Services, \$25,000 in each fiscal year shall be allocated to 75137  
the Helping Hearts Program. 75138

Of the foregoing appropriation item 440-416, Child and Family 75139  
Health Services, \$25,000 in each fiscal year shall be allocated to 75140  
the Tree of Knowledge Learning Center. 75141

SEXUAL ASSAULT PREVENTION AND INTERVENTION 75142

The foregoing appropriation item 440-419, Sexual Assault 75143  
Prevention and Intervention, shall be used for the following 75144

purposes:	75145
(A) Funding of new services in counties with no services for sexual assault;	75146 75147
(B) Expansion of services provided in currently funded projects so that comprehensive crisis intervention and prevention services are offered;	75148 75149 75150
(C) Start-up funding for Sexual Assault Nurse Examiner (SANE) projects;	75151 75152
(D) Statewide expansion of local outreach and public awareness efforts.	75153 75154
HIV/AIDS PREVENTION/TREATMENT	75155
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.	75156 75157 75158 75159
INFECTIOUS DISEASE PREVENTION	75160
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.	75161 75162 75163 75164
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.	75165 75166 75167 75168 75169 75170 75171
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	75172 75173 75174

diseases.	75175
HELP ME GROW	75176
The foregoing appropriation item 440-459, Help Me Grow, shall	75177
be used by the Department of Health to distribute subsidies to	75178
counties to implement the Help Me Grow program. Appropriation item	75179
440-459 may be used in conjunction with Temporary Assistance for	75180
Needy Families from the Department of Job and Family Services,	75181
Early Intervention funding from the Department of Mental	75182
Retardation and Developmental Disabilities, and in conjunction	75183
with other early childhood funds and services to promote the	75184
optimal development of young children. Local contracts shall be	75185
developed between local departments of job and family services and	75186
family and children first councils for the administration of TANF	75187
funding for the Help Me Grow Program. The Department of Health	75188
shall enter into an interagency agreement with the Department of	75189
Education, Department of Mental Retardation and Developmental	75190
Disabilities, Department of Job and Family Services, and	75191
Department of Mental Health to ensure that all early childhood	75192
programs and initiatives are coordinated and school linked.	75193
POISON CONTROL NETWORK	75194
The foregoing appropriation item 440-504, Poison Control	75195
Network, shall be used in each fiscal year by the Department of	75196
Health for grants to the consolidated Ohio Poison Control Center	75197
to provide poison control services to Ohio citizens.	75198
Notwithstanding section 3701.83 of the Revised Code, not	75199
later than the fifteenth day of July of each fiscal year or as	75200
soon as possible thereafter, the Director of Budget and Management	75201
shall transfer cash in the amount of \$127,287 from appropriation	75202
item 440-618, General Operations - General Services Fund, (Fund	75203
142) to the General Revenue Fund.	75204
TARGETED HEALTH CARE SERVICES OVER 21	75205

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.

EXTENSION OF HEMOPHILIA HEALTH INSURANCE PREMIUM PAYMENTS 75210

The Director of Health shall continue to provide, through contracts with or grants to hemophilia treatment centers, for health insurance premiums to be paid for individuals who are at least twenty-one years of age, diagnosed with hemophilia or a related bleeding disorder, and receive such assistance on the day prior to the effective date of this section under the program for care and treatment of persons suffering from hemophilia established under former section 3701.144 of the Revised Code until the effective date of the initial rules adopted under division (A)(12) of section 3701.021 of the Revised Code for the hemophilia program established under section 3701.029 of the Revised Code. The Public Health Council shall adopt those rules not later than twelve months after the effective date of this section.

MATERNAL CHILD HEALTH BLOCK GRANT 75225

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 75235

The foregoing appropriation item 440-608, Genetics Services 75236

(Fund 4D6), shall be used by the Department of Health to 75237  
administer programs authorized by sections 3701.501 and 3701.502 75238  
of the Revised Code. None of these funds shall be used to counsel 75239  
or refer for abortion, except in the case of a medical emergency. 75240

SAFETY AND QUALITY OF CARE STANDARDS 75241

The Department of Health may use Fund 471, Certificate of 75242  
Need, for administering sections 3702.11 to 3702.20 and 3702.30 of 75243  
the Revised Code in each fiscal year. 75244

MEDICALLY HANDICAPPED CHILDREN AUDIT 75245

The Medically Handicapped Children Audit Fund (Fund 477) 75246  
shall receive revenue from audits of hospitals and recoveries from 75247  
third-party payers. Moneys may be expended for payment of audit 75248  
settlements and for costs directly related to obtaining recoveries 75249  
from third-party payers and for encouraging Medically Handicapped 75250  
Children's Program recipients to apply for third-party benefits. 75251  
Moneys also may be expended for payments for diagnostic and 75252  
treatment services on behalf of medically handicapped children, as 75253  
defined in division (A) of section 3701.022 of the Revised Code, 75254  
and Ohio residents who are twenty-one or more years of age and who 75255  
are suffering from cystic fibrosis or hemophilia. Moneys may also 75256  
be expended for administrative expenses incurred in operating the 75257  
Medically Handicapped Children's Program. 75258

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND 75259  
PERMIT FUND 75260

The Director of Budget and Management, pursuant to a plan 75261  
submitted by the Department of Health, or as otherwise determined 75262  
by the Director of Budget and Management, shall set a schedule to 75263  
transfer cash from the Liquor Control Fund (Fund 043) to the 75264  
Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating 75265  
needs of the Alcohol Testing and Permit program. 75266

The Director of Budget and Management shall transfer to the 75267

Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control Fund (Fund 043) established in section 4301.12 of the Revised Code such amounts at such times as determined by the transfer schedule.

**MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS**

The foregoing appropriation item 440-607, Medically Handicapped Children - County Assessments (Fund 666), shall be used to make payments pursuant to division (E) of section 3701.023 of the Revised Code.

**NURSING FACILITY TECHNICAL ASSISTANCE PROGRAM**

The Director of Budget and Management shall transfer, by intrastate transfer voucher, each fiscal year, cash from Fund 4E3, Resident Protection Fund, in the Ohio Department of Job and Family Services, to Fund 5L1, Nursing Facility Technical Assistance Fund, in the Ohio Department of Health, to be used in accordance with section 3721.026 of the Revised Code. The transfers shall equal the amount appropriated per fiscal year in Fund 5L1, Nursing Facility Technical Assistance Fund.

**Section 52. HEF HIGHER EDUCATIONAL FACILITY COMMISSION**

Agency Fund Group				75286
461 372-601 Operating Expenses	\$	15,290	\$	16,819
TOTAL AGY Agency Fund Group	\$	15,290	\$	16,819
TOTAL ALL BUDGET FUND GROUPS	\$	15,290	\$	16,819

**Section 53. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS**

General Revenue Fund				75292
GRF 148-100 Personal Services	\$	127,419	\$	127,419
GRF 148-200 Maintenance	\$	35,901	\$	35,901
TOTAL GRF General Revenue Fund	\$	163,320	\$	163,320
General Services Fund Group				75296
601 148-602 Gifts and	\$	8,485	\$	8,485



Miscellaneous				
TOTAL GSF General Services				75298
Fund Group	\$	8,485	\$ 8,485	75299
TOTAL ALL BUDGET FUND GROUPS	\$	171,805	\$ 171,805	75300
<b>Section 54. OHS OHIO HISTORICAL SOCIETY</b>				75302
General Revenue Fund				75303
GRF 360-403 Adena - Worthington	\$	200,000	\$ 150,000	75304
Home				
GRF 360-501 Operating Subsidy	\$	3,589,973	\$ 3,589,973	75305
GRF 360-502 Site Operations	\$	8,240,438	\$ 8,240,438	75306
GRF 360-503 Ohio Bicentennial	\$	1,847,239	\$ 58,164	75307
Commission				
GRF 360-504 Ohio Preservation	\$	339,733	\$ 339,733	75308
Office				
GRF 360-505 Afro-American Museum	\$	778,231	\$ 778,231	75309
GRF 360-506 Hayes Presidential	\$	524,981	\$ 524,981	75310
Center				
GRF 360-508 Historical Grants	\$	1,500,000	\$ 1,350,000	75311
TOTAL GRF General Revenue Fund	\$	17,020,595	\$ 15,031,520	75312
TOTAL ALL BUDGET FUND GROUPS	\$	17,020,595	\$ 15,031,520	75313
SUBSIDY APPROPRIATION				75314
Upon approval by the Director of Budget and Management, the				75315
foregoing appropriation items shall be released to the Ohio				75316
Historical Society in quarterly amounts that in total do not				75317
exceed the annual appropriations. The funds and fiscal records of				75318
the society for fiscal years 2004 and 2005 shall be examined by				75319
independent certified public accountants approved by the Auditor				75320
of State, and a copy of the audited financial statements shall be				75321
filed with the Office of Budget and Management. The society shall				75322
prepare and submit to the Office of Budget and Management the				75323
following:				75324

(A) An estimated operating budget for each fiscal year of the 75325  
biennium. The operating budget shall be submitted at or near the 75326  
beginning of each year. 75327

(B) Financial reports, indicating actual receipts and 75328  
expenditures for the fiscal year to date. These reports shall be 75329  
filed at least semiannually during the fiscal biennium. 75330

The foregoing appropriations shall be considered to be the 75331  
contractual consideration provided by the state to support the 75332  
state's offer to contract with the Ohio Historical Society under 75333  
section 149.30 of the Revised Code. 75334

SITE OPERATIONS 75335

Of the foregoing appropriation item 360-502, Site Operations, 75336  
funds shall be distributed to the Afro-American Museum, the Hayes 75337  
Presidential Center, as well as other sites controlled by the Ohio 75338  
Historical Society in each fiscal year. 75339

HAYES PRESIDENTIAL CENTER 75340

If a United States government agency, including, but not 75341  
limited to, the National Park Service, chooses to take over the 75342  
operations or maintenance of the Hayes Presidential Center, in 75343  
whole or in part, the Ohio Historical Society shall make 75344  
arrangements with the National Park Service or other United States 75345  
government agency for the efficient transfer of operations or 75346  
maintenance. 75347

HISTORICAL GRANTS 75348

Of the foregoing appropriation item 360-508, Historical 75349  
Grants, \$100,000 in each fiscal year shall be distributed to the 75350  
Hebrew Union College in Cincinnati for the Center for Holocaust 75351  
and Humanity Education, \$150,000 in fiscal year 2004 shall be 75352  
distributed to the National Underground Railroad Freedom Center in 75353  
Cincinnati, \$250,000 in each fiscal year shall be distributed to 75354

the Great Lakes Historical Society in Vermilion, \$500,000 in each 75355  
fiscal year shall be distributed to the Western Reserve Historical 75356  
Society in Cleveland, and \$500,000 in each fiscal year shall be 75357  
distributed to the Cincinnati Museum Center. 75358

OHIO BICENTENNIAL COMMISSION ROYALTIES 75359

Notwithstanding any previous arrangement to the contrary, the 75360  
Ohio Bicentennial Commission shall keep the first \$100,000 in 75361  
earned royalties associated with the Ohio Bicentennial logo during 75362  
the 2004-2005 biennium. This \$100,000 shall be used to cover the 75363  
operating expenses of the Ohio Bicentennial Commission in fiscal 75364  
year 2005. The remaining moneys collected from royalties 75365  
associated with the Ohio Bicentennial logo shall be deposited into 75366  
the General Revenue Fund, of which \$350,000 shall be distributed 75367  
to the Ohio Historical Society for use in appropriation item 75368  
360-403, Adena - Worthington Home. 75369

**Section 55. REP OHIO HOUSE OF REPRESENTATIVES** 75370

General Revenue Fund 75371

GRF 025-321 Operating Expenses	\$	19,018,547	\$	19,969,473	75372
TOTAL GRF General Revenue Fund	\$	19,018,547	\$	19,969,473	75373

General Services Fund Group 75374

103 025-601 House Reimbursement	\$	1,351,875	\$	1,419,469	75375
4A4 025-602 Miscellaneous Sales	\$	35,690	\$	37,474	75376

TOTAL GSF General Services 75377

Fund Group \$ 1,387,565 \$ 1,456,943 75378

TOTAL ALL BUDGET FUND GROUPS \$ 20,406,112 \$ 21,426,416 75379

**Section 56. IGO OFFICE OF THE INSPECTOR GENERAL** 75381

General Revenue Fund 75382

GRF 965-321 Operating Expenses	\$	812,000	\$	812,000	75383
TOTAL GRF General Revenue Fund	\$	812,000	\$	812,000	75384

General Services Fund Group 75385

5X9 965-401	Inspector General	\$	100,000	\$	100,000	75386
	Reimbursement					
TOTAL GSF	General Services Fund	\$	100,000	\$	100,000	75387
Group						
State Special Revenue Fund Group						75388
4Z3 965-602	Special Investigations	\$	100,000	\$	100,000	75389
TOTAL SSR	State Special Revenue	\$	100,000	\$	100,000	75390
Fund Group						
TOTAL ALL BUDGET FUND GROUPS		\$	1,012,000	\$	1,012,000	75391
INSPECTOR GENERAL REIMBURSEMENT						75392
The foregoing appropriation item 965-401, Inspector General						75393
Reimbursement, shall be used for reimbursement from agreements						75394
with state agencies and the voluntary contributions from private						75395
parties for investigative costs of the Inspector General.						75396
SPECIAL INVESTIGATIONS						75397
Of the foregoing appropriation item 965-602, Special						75398
Investigations, up to \$100,000 in each fiscal year may be used for						75399
investigative costs, pursuant to section 121.481 of the Revised						75400
Code.						75401
<b>Section 57. INS DEPARTMENT OF INSURANCE</b>						75402
Federal Special Revenue Fund Group						75403
3U5 820-602	OSHIIP Operating Grant	\$	560,559	\$	560,559	75404
TOTAL FED	Federal Special					75405
Revenue Fund Group		\$	560,559	\$	560,559	75406
State Special Revenue Fund Group						75407
554 820-601	Operating Expenses -	\$	506,515	\$	561,411	75408
OSHIIP						
554 820-606	Operating Expenses	\$	21,815,431	\$	22,357,575	75409
555 820-605	Examination	\$	7,433,751	\$	7,639,581	75410
TOTAL SSR	State Special Revenue					75411

Fund Group	\$	29,755,697	\$	30,558,567	75412
TOTAL ALL BUDGET FUND GROUPS	\$	30,316,256	\$	31,119,126	75413

MARKET CONDUCT EXAMINATION 75414

When conducting a market conduct examination of any insurer 75415  
doing business in this state, the Superintendent of Insurance may 75416  
assess the costs of the examination against the insurer. The 75417  
superintendent may enter into consent agreements to impose 75418  
administrative assessments or fines for conduct discovered that 75419  
may be violations of statutes or regulations administered by the 75420  
superintendent. All costs, assessments, or fines collected shall 75421  
be deposited to the credit of the Department of Insurance 75422  
Operating Fund (Fund 554). 75423

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 75424

The Superintendent of Insurance may transfer funds from the 75425  
Department of Insurance Operating Fund (Fund 554), established by 75426  
section 3901.021 of the Revised Code, to the Superintendent's 75427  
Examination Fund (Fund 555), established by section 3901.071 of 75428  
the Revised Code, only for the expenses incurred in examining 75429  
domestic fraternal benefit societies as required by section 75430  
3921.28 of the Revised Code. 75431

On July 1, 2003, or as soon as possible thereafter, the 75432  
Director of Budget and Management shall transfer \$1,000,000 from 75433  
the Department of Insurance Operating Fund (Fund 554) to the 75434  
General Revenue Fund. 75435

**Section 58.** JFS DEPARTMENT OF JOB AND FAMILY SERVICES 75436

General Revenue Fund 75437

GRF 600-321 Support Services 75438

State	\$	62,361,047	\$	58,611,047	75439
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Federal	\$	7,176,249	\$	7,125,883	75440
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Support Services Total	\$	69,537,296	\$	65,736,930	75441
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GRF 600-410	TANF State	\$	272,619,061	\$	272,619,061	75442
GRF 600-413	Child Care	\$	84,120,596	\$	84,120,596	75443
	Match/Maintenance of Effort					
GRF 600-416	Computer Projects					75444
	State	\$	120,000,000	\$	120,000,000	75445
	Federal	\$	31,095,442	\$	31,400,454	75446
	Computer Projects Total	\$	151,095,442	\$	151,400,454	75447
GRF 600-420	Child Support Administration	\$	5,091,446	\$	5,091,446	75448
GRF 600-421	Office of Family Stability	\$	4,864,932	\$	4,864,932	75449
GRF 600-422	Local Operations	\$	2,305,232	\$	2,305,232	75450
GRF 600-423	Office of Children and Families	\$	5,000,000	\$	5,000,000	75451
GRF 600-424	Office of Workforce Development	\$	877,971	\$	877,971	75452
GRF 600-425	Office of Ohio Health Plans					75453
	State	\$	21,944,901	\$	22,603,740	75454
	Federal	\$	21,848,555	\$	22,495,502	75455
	Office of Ohio Health Plans Total	\$	43,793,456	\$	45,099,242	75456
GRF 600-435	Unemployment Compensation Review Commission	\$	3,188,473	\$	3,188,473	75457
GRF 600-439	Commission to Reform Medicaid	\$	125,000	\$	125,000	75458
GRF 600-502	Child Support Match	\$	16,814,103	\$	16,814,103	75459
GRF 600-511	Disability Financial Assistance	\$	22,839,371	\$	22,839,371	75460
GRF 600-521	Family Stability	\$	55,206,401	\$	55,206,401	75461

	Subsidy				
GRF 600-523	Children and Families	\$ 69,846,563	\$ 69,846,563		75462
	Subsidy				
GRF 600-525	Health Care/Medicaid				75463
	State	\$ 3,676,753,835	\$ 3,892,593,671		75464
	Federal	\$ 5,223,371,246	\$ 5,567,441,206		75465
	Health Care Total	\$ 8,900,125,081	\$ 9,460,034,877		75466
GRF 600-528	Adoption Services				75467
	State	\$ 33,395,955	\$ 36,017,981		75468
	Federal	\$ 37,368,248	\$ 41,115,000		75469
	Adoption Services	\$ 70,764,203	\$ 77,132,981		75470
	Total				
TOTAL GRF	General Revenue Fund				75471
	State	\$ 4,457,354,887	\$ 4,672,725,588		75472
	Federal	\$ 5,320,859,740	\$ 5,669,578,045		75473
	GRF Total	\$ 9,778,214,627	\$10,342,303,633		75474
	General Services Fund Group				75475
4A8 600-658	Child Support	\$ 27,255,646	\$ 26,680,794		75476
	Collections				
4R4 600-665	BCII Services/Fees	\$ 136,974	\$ 136,974		75477
5C9 600-671	Medicaid Program	\$ 54,686,270	\$ 55,137,078		75478
	Support				
5N1 600-677	County Technologies	\$ 5,000,000	\$ 5,000,000		75479
613 600-645	Training Activities	\$ 135,000	\$ 135,000		75480
TOTAL GSF	General Services				75481
Fund Group		\$ 87,213,890	\$ 87,089,846		75482
	Federal Special Revenue Fund Group				75483
3A2 600-641	Emergency Food	\$ 2,083,500	\$ 2,187,675		75484
	Distribution				
3D3 600-648	Children's Trust Fund	\$ 2,040,524	\$ 2,040,524		75485
	Federal				
3F0 600-623	Health Care Federal	\$ 408,467,306	\$ 424,104,433		75486

3F0	600-650	Hospital Care Assurance Match	\$ 298,128,308	\$ 305,879,644	75487
3G5	600-655	Interagency Reimbursement	\$ 1,180,523,642	\$ 1,245,244,536	75488
3H7	600-617	Child Care Federal	\$ 224,539,425	\$ 235,045,596	75489
3N0	600-628	IV-E Foster Care Maintenance	\$ 173,963,142	\$ 173,963,142	75490
3S5	600-622	Child Support Projects	\$ 534,050	\$ 534,050	75491
3V0	600-662	WIA Ohio Option #7	\$ 87,407,014	\$ 89,352,850	75492
3V0	600-688	Workforce Investment Act	\$ 93,636,390	\$ 94,932,750	75493
3V4	600-678	Federal Unemployment Programs	\$ 153,690,682	\$ 154,111,608	75494
3V4	600-679	Unemployment Compensation Review Commission - Federal	\$ 3,097,320	\$ 2,860,297	75495
3V6	600-689	TANF Block Grant	\$ 766,095,609	\$ 821,909,688	75496
3W3	600-659	TANF/Title XX	\$ 88,994,049	\$ 93,498,158	75497
316	600-602	State and Local Training	\$ 11,212,594	\$ 11,249,282	75498
327	600-606	Child Welfare	\$ 29,119,408	\$ 28,665,728	75499
331	600-686	Federal Operating	\$ 48,237,185	\$ 47,340,081	75500
365	600-681	JOB Training Program	\$ 5,000,000	\$ 0	75501
384	600-610	Food Stamps and State Administration	\$ 134,560,572	\$ 135,141,694	75502
385	600-614	Refugee Services	\$ 5,793,656	\$ 5,841,407	75503
395	600-616	Special Activities/Child and Family Services	\$ 3,975,821	\$ 3,975,821	75504
396	600-620	Social Services Block Grant	\$ 74,969,767	\$ 74,986,134	75505
397	600-626	Child Support	\$ 304,157,939	\$ 307,468,576	75506
398	600-627	Adoption Maintenance/	\$ 339,957,978	\$ 340,104,370	75507



Administration			
TOTAL FED Federal Special Revenue			75508
Fund Group	\$ 4,440,185,881	\$ 4,600,438,044	75509
State Special Revenue Fund Group			75510
198 600-647 Children's Trust Fund	\$ 4,336,109	\$ 4,336,109	75511
4A9 600-607 Unemployment	\$ 8,001,000	\$ 8,001,000	75512
Compensation Admin Fund			
4E3 600-605 Nursing Home	\$ 4,759,913	\$ 4,759,914	75513
Assessments			
4E7 600-604 Child and Family	\$ 300,000	\$ 300,000	75514
Services Collections			
4F1 600-609 Foundation	\$ 119,310	\$ 119,310	75515
Grants/Child and Family Services			
4J5 600-613 Nursing Facility Bed	\$ 35,060,013	\$ 35,064,238	75516
Assessments			
4J5 600-618 Residential State	\$ 15,700,000	\$ 15,700,000	75517
Supplement Payments			
4K1 600-621 ICF/MR Bed Assessments	\$ 20,467,050	\$ 20,428,726	75518
4R3 600-687 Banking Fees	\$ 892,000	\$ 892,000	75519
4Z1 600-625 HealthCare Compliance	\$ 10,000,000	\$ 10,000,000	75520
5A5 600-685 Unemployment Benefit	\$ 14,000,000	\$ 0	75521
Automation			
5P5 600-692 Health Care Services	\$ 492,932,514	\$ 515,947,439	75522
5Q9 600-619 Supplemental Inpatient	\$ 30,797,539	\$ 30,797,539	75523
Hospital Payments			
5R2 600-608 Medicaid-Nursing	\$ 125,517,482	\$ 134,666,713	75524
Facilities			
5S3 600-629 MR/DD Medicaid	\$ 1,620,960	\$ 1,620,960	75525
Administration and Oversight			
5T2 600-652 Child Support Special	\$ 1,500,000	\$ 750,000	75526

	Payment				
5U3	600-654	Health Care Services	\$ 7,576,322	\$ 6,119,127	75527
		Administration			
5U6	600-663	Children and Family	\$ 4,929,718	\$ 4,929,718	75528
		Support			
651	600-649	Hospital Care	\$ 208,634,072	\$ 214,058,558	75529
		Assurance Program Fund			
		TOTAL SSR State Special Revenue			75530
		Fund Group	\$ 987,144,002	\$ 1,008,491,351	75531
		Agency Fund Group			75532
192	600-646	Support Intercept -	\$ 136,500,000	\$ 136,500,000	75533
		Federal			
5B6	600-601	Food Stamp Intercept	\$ 5,000,000	\$ 5,000,000	75534
583	600-642	Support Intercept -	\$ 20,565,582	\$ 20,565,582	75535
		State			
		TOTAL AGY Agency Fund Group	\$ 162,065,582	\$ 162,065,582	75536
		Holding Account Redistribution Fund Group			75537
R12	600-643	Refunds and Audit	\$ 5,343,906	\$ 5,343,906	75538
		Settlements			
R13	600-644	Forgery Collections	700,000	700,000	75539
		TOTAL 090 Holding Account	\$ 6,043,906	\$ 6,043,906	75540
		Redistribution Fund Group			
		TOTAL ALL BUDGET FUND GROUPS	\$15,460,867,888	\$16,206,432,362	75541
		<b>Section 58.01. OHIO COMMISSION TO REFORM MEDICAID</b>			75543
		The foregoing appropriation item 600-4XX, Commission to			75544
		Reform Medicaid, shall be used to fund the Ohio Commission to			75545
		Reform Medicaid.			75546
		HEALTH CARE/MEDICAID			75547
		The foregoing appropriation item 600-525, Health			75548
		Care/Medicaid, shall not be limited by the provisions of section			75549

131.33 of the Revised Code. 75550

**Section 58.02.** CHILD SUPPORT COLLECTIONS/TANF MOE 75551

The foregoing appropriation item 600-658, Child Support 75552  
Collections, shall be used by the Department of Job and Family 75553  
Services to meet the TANF maintenance of effort requirements of 75554  
Pub. L. No. 104-193. After the state has met the maintenance of 75555  
effort requirement, the Department of Job and Family Services may 75556  
use funds from appropriation item 600-658 to support public 75557  
assistance activities. 75558

**Section 58.03.** MEDICAID PROGRAM SUPPORT FUND - STATE 75559

The foregoing appropriation item 600-671, Medicaid Program 75560  
Support, shall be used by the Department of Job and Family 75561  
Services to pay for Medicaid services and contracts. The 75562  
Department may also deposit to Fund 5C9 revenues received from 75563  
other state agencies for Medicaid services under the terms of 75564  
interagency agreements between the Department and other state 75565  
agencies. 75566

**Section 58.04.** HEALTH CARE SERVICES ADMINISTRATION 75567

The foregoing appropriation item 600-654, Health Care 75568  
Services Administration, shall be used by the Department of Job 75569  
and Family Services for costs associated with the administration 75570  
of the Medicaid program. 75571

**Section 58.05.** HEALTH CARE SERVICES ADMINISTRATION FUND 75572

Of the amount received by the Department of Job and Family 75573  
Services during fiscal year 2004 and fiscal year 2005 from the 75574  
first installment of assessments paid under section 5112.06 of the 75575  
Revised Code and intergovernmental transfers made under section 75576  
5112.07 of the Revised Code, the Director of Job and Family 75577

Services shall deposit \$350,000 into the state treasury to the 75578  
credit of the Health Care Services Administration Fund (Fund 5U3). 75579

HOSPITAL CARE ASSURANCE MATCH FUND 75580

Appropriation item 600-650, Hospital Care Assurance Match, 75581  
shall be used by the Department of Job and Family Services in 75582  
accordance with division (B) of section 5112.18 of the Revised 75583  
Code. 75584

**Section 58.06. TANF FEDERAL BLOCK GRANT FUNDS AND TRANSFERS** 75585

Upon the request of the Department of Job and Family 75586  
Services, the Director of Budget and Management may seek 75587  
Controlling Board approval to increase appropriations in 75588  
appropriation item 600-689, TANF Block Grant, provided sufficient 75589  
funds exist to do so without any corresponding decrease in other 75590  
appropriation items. The Department of Job and Family Services 75591  
shall provide the Director of Budget and Management and the 75592  
Controlling Board with documentation to support the need for the 75593  
increased appropriation. 75594

All transfers of moneys from or charges against TANF Federal 75595  
Block Grant awards for use in the Social Services Block Grant or 75596  
the Child Care and Development Block Grant shall be done after the 75597  
Department of Job and Family Services gives written notice to the 75598  
Director of Budget and Management. The Department of Job and 75599  
Family Services shall first provide the Director of Budget and 75600  
Management with documentation to support the need for such 75601  
transfers or charges for use in the Social Services Block Grant or 75602  
in the Child Care and Development Block Grant. 75603

Before the thirtieth day of September of each fiscal year, 75604  
the Department of Job and Family Services shall file claims with 75605  
the United States Department of Health and Human Services for 75606  
reimbursement for all allowable expenditures for services provided 75607

by the Department of Job and Family Services, or other agencies 75608  
that may qualify for Social Services Block Grant funding pursuant 75609  
to Title XX of the Social Security Act. 75610

**Section 58.06a. GOVERNOR'S OFFICE FOR FAITH-BASED NONPROFIT 75611**  
**AND OTHER NONPROFIT ORGANIZATIONS 75612**

Of the foregoing appropriation item 600-659, TANF/Title XX, 75613  
\$625,000 in the fiscal year 2004-2005 biennium shall be used to 75614  
support the activities of the Governor's Office for Faith-Based 75615  
Nonprofit and Other Nonprofit Organizations. 75616

**OHIO ASSOCIATION OF SECOND HARVEST FOOD BANKS 75617**

Of the foregoing appropriation item 600-659, TANF/Title XX 75618  
(Fund 3W3), up to \$4,500,000 in each fiscal year shall be used by 75619  
the Department of Job and Family Services to support expenditures 75620  
to the Ohio Association of Second Harvest Food Banks according to 75621  
the following criteria. 75622

As used in this section, "federal poverty guidelines" has the 75623  
same meaning as in section 5101.46 of the Revised Code. 75624

The Department of Job and Family Services shall provide an 75625  
annual grant of \$4,500,000 in each of the fiscal years 2004 and 75626  
2005 to the Ohio Association of Second Harvest Food Banks. In each 75627  
fiscal year, the Ohio Association of Second Harvest Food Banks 75628  
shall use \$2,500,000 for the purchase of food products for the 75629  
Ohio Food Program, of which up to \$105,000 may be used for food 75630  
storage and transport, and shall use \$2,000,000 for the 75631  
Agricultural Surplus Production Alliance Project. Funds provided 75632  
for the Ohio Food Program shall be used to purchase food products 75633  
and to distribute those food products to agencies participating in 75634  
the emergency food distribution program. No funds provided through 75635  
this grant may be used for administrative expenses other than 75636  
funds provided for food storage and transport. As soon as possible 75637

after entering into a grant agreement at the beginning of each 75638  
fiscal year, the Department of Job and Family Services shall 75639  
distribute the grant funds in one single payment. The Ohio 75640  
Association of Second Harvest Food Banks shall develop a plan for 75641  
the distribution of the food products to local food distribution 75642  
agencies. Agencies receiving these food products shall ensure that 75643  
individuals and families who receive any of the food products 75644  
purchased with these funds have an income at or below 150 per cent 75645  
of the federal poverty guidelines. The Department of Job and 75646  
Family Services and the Ohio Association of Second Harvest Food 75647  
Banks shall agree on reporting requirements to be incorporated 75648  
into the grant agreement. 75649

The Ohio Association of Second Harvest Food Banks shall 75650  
return any fiscal year 2004 funds from this grant remaining 75651  
unspent on June 30, 2004, to the Department of Job and Family 75652  
Services not later than November 1, 2004. The Ohio Association of 75653  
Second Harvest Food Banks shall return any fiscal year 2005 funds 75654  
from the grant remaining unspent on June 30, 2005, to the 75655  
Department of Job and Family Services no later than November 1, 75656  
2005. 75657

**Section 58.06b. ADULT PROTECTIVE SERVICES** 75658

Of the foregoing appropriation item 600-659, TANF/Title XX 75659  
(Fund 3W3), up to \$2,700,000 in each fiscal year shall be used by 75660  
the Department of Job and Family Services to reimburse county 75661  
departments of job and family services for all or part of the 75662  
costs they incur in providing adult protective services pursuant 75663  
to sections 5101.60 to 5101.71 of the Revised Code. 75664

**Section 58.07. PRESCRIPTION DRUG REBATE FUND** 75665

The foregoing appropriation item 600-692, Health Care 75666  
Services, shall be used by the Department of Job and Family 75667

Services in accordance with section 5111.081 of the Revised Code. 75668  
Moneys recovered by the Department pursuant to the Department's 75669  
rights of recovery under section 5101.58 of the Revised Code, that 75670  
are not directed to the Health Care Services Administration Fund 75671  
(Fund 5U3) pursuant to section 5111.94 of the Revised Code shall 75672  
also be deposited into Fund 5P5. 75673

**Section 58.08. ODJFS FUNDS** 75674

AGENCY FUND GROUP 75675

The Agency Fund Group shall be used to hold revenues until 75676  
the appropriate fund is determined or until they are directed to 75677  
the appropriate governmental agency other than the Department of 75678  
Job and Family Services. If it is determined that additional 75679  
appropriation authority is necessary, such amounts are hereby 75680  
appropriated. 75681

HOLDING ACCOUNT REDISTRIBUTION GROUP 75682

The foregoing appropriation items 600-643, Refunds and Audit 75683  
Settlements, and 600-644, Forgery Collections, Holding Account 75684  
Redistribution Fund Group, shall be used to hold revenues until 75685  
they are directed to the appropriate accounts or until they are 75686  
refunded. If it is determined that additional appropriation 75687  
authority is necessary, such amounts are hereby appropriated. 75688

**Section 58.09. CONSOLIDATED FUNDING ALLOCATION FOR COUNTY** 75689  
**DEPARTMENTS OF JOB AND FAMILY SERVICES** 75690

Using the foregoing appropriation items 600-521, Family 75691  
Stability Subsidy; 600-659, TANF/Title XX; 600-610, Food Stamps 75692  
and State Administration; 600-410, TANF State; 600-689, TANF Block 75693  
Grant; 600-620, Social Services Block Grant; 600-523, Children and 75694  
Families Subsidy; 600-413, Child Care Match/Maintenance of Effort; 75695  
600-617, Child Care Federal; 600-623, Health Care Federal; and 75696  
600-614, Refugees Services, the Department of Job and Family 75697

Services may establish a single allocation for county departments 75698  
of job and family services. The county department is not required 75699  
to use all the money from one or more of the appropriation items 75700  
listed in this paragraph for the purpose for which the specific 75701  
appropriation item is made so long as the county department uses 75702  
the money for a purpose for which at least one of the other of 75703  
those appropriation items is made. The county department may not 75704  
use the money in the allocation for a purpose other than a purpose 75705  
any of those appropriation items are made. If the spending 75706  
estimates used in establishing the single allocation are not 75707  
realized and the county department uses money in one or more of 75708  
those appropriation items in a manner for which federal financial 75709  
participation is not available, the department shall use state 75710  
funds available in one or more of those appropriation items to 75711  
ensure that the county department receives the full amount of its 75712  
allocation and complete a reconciliation at the end of the fiscal 75713  
year to appropriately align cash draws with expenditures related 75714  
to state and federal claims. 75715

To facilitate this reconciliation, before the thirty-first 75716  
day of May of the current fiscal year and after the conclusion of 75717  
the county reconciliation process for the previous fiscal year, 75718  
the Director of Job and Family Services may request that the 75719  
Director of Budget and Management transfer cash between the funds 75720  
that make-up the consolidated allocation to the county departments 75721  
of job and family services. 75722

**Section 58.10. TRANSFER OF FUNDS** 75723

The Department of Job and Family Services shall transfer, 75724  
through intrastate transfer vouchers, cash from State Special 75725  
Revenue Fund 4K1, ICF/MR Bed Assessments, to fund 4K8, Home and 75726  
Community-Based Services, in the Ohio Department of Mental 75727  
Retardation and Developmental Disabilities. The sum of the 75728



transfers shall equal \$12,000,000 in fiscal year 2004 and 75729  
\$12,000,000 in fiscal year 2005. The transfer may occur on a 75730  
quarterly basis or on a schedule developed and agreed to by both 75731  
departments. 75732

The Department of Job and Family Services shall transfer, 75733  
through intrastate transfer vouchers, cash from the State Special 75734  
Revenue Fund 4J5, Home and Community-Based Services for the Aged, 75735  
to Fund 4J4, PASSPORT, in the Department of Aging. The sum of the 75736  
transfers shall be \$33,268,052 in fiscal year 2004 and \$33,263,984 75737  
in fiscal year 2005. The transfer may occur on a quarterly basis 75738  
or on a schedule developed and agreed to by both departments. 75739

TRANSFERS OF IMD/DSH CASH 75740

The Department of Job and Family Services shall transfer, 75741  
through intrastate transfer voucher, cash from fund 5C9, Medicaid 75742  
Program Support, to the Department of Mental Health's Fund 4X5, 75743  
OhioCare, in accordance with an interagency agreement which 75744  
delegates authority from the Department of Job and Family Services 75745  
to the Department of Mental Health to administer specified 75746  
Medicaid services. 75747

**Section 58.11. EMPLOYER SURCHARGE** 75748

The surcharge and the interest on the surcharge amounts due 75749  
for calendar years 1988, 1989, and 1990 as required by Am. Sub. 75750  
H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the 75751  
118th General Assembly, and section 4141.251 of the Revised Code 75752  
as it existed prior to Sub. H.B. 478 of the 122nd General 75753  
Assembly, again shall be assessed and collected by, accounted for, 75754  
and made available to the Department of Job and Family Services in 75755  
the same manner as set forth in section 4141.251 of the Revised 75756  
Code as it existed prior to Sub. H.B. 478 of the 122nd General 75757  
Assembly, notwithstanding the repeal of the surcharge for calendar 75758  
years after 1990, pursuant to Sub. H.B. 478 of the 122nd General 75759

Assembly, except that amounts received by the Director on or after 75760  
July 1, 2001, shall be deposited into the special administrative 75761  
fund established pursuant to section 4141.11 of the Revised Code. 75762

**Section 58.12. FUNDING FOR HABILITATIVE SERVICES** 75763

Notwithstanding any limitations contained in sections 5112.31 75764  
and 5112.37 of the Revised Code, in each fiscal year, cash from 75765  
State Special Revenue Fund 4K1, ICF/MR Bed Assessments, in excess 75766  
of the amounts needed for transfers to Fund 4K8 may be used by the 75767  
Department of Job and Family Services to cover costs of care 75768  
provided to participants in a waiver with an ICF/MR level of care 75769  
requirement administered by the Department of Job and Family 75770  
Services. 75771

**Section 58.13. FUNDING FOR INSTITUTIONAL FACILITY AUDITS AND** 75772  
**THE OHIO ACCESS SUCCESS PROJECT** 75773

Notwithstanding any limitations in sections 3721.51 and 75774  
3721.56 of the Revised Code, in each fiscal year, cash from the 75775  
State Special Revenue Fund 4J5, Home and Community-Based Services 75776  
for the Aged, in excess of the amounts needed for the transfers 75777  
may be used by the Department of Job and Family Services for the 75778  
following purposes: (A) up to \$1.0 million in each fiscal year to 75779  
fund the state share of audits of Medicaid cost reports filed with 75780  
the Department of Job and Family Services by nursing facilities 75781  
and intermediate care facilities for the mentally retarded; and 75782  
(B) up to \$350,000 in fiscal year 2004 and up to \$350,000 in 75783  
fiscal year 2005 to provide one-time transitional benefits under 75784  
the Ohio Access Success Project that the Director of Job and 75785  
Family Services may establish under section 5111.206 of the 75786  
Revised Code. 75787

**Section 58.14. REFUND OF SETS PENALTY** 75788

The Department of Job and Family Services shall deposit any 75789  
refunds for penalties that were paid directly or indirectly by the 75790  
state for the Support Enforcement Tracking System (SETS) to Fund 75791  
3V6, TANF Block Grant. 75792

**Section 58.15.** PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY 75793

The Director of Job and Family Services may submit to the 75794  
United States Secretary of Health and Human Services a request to 75795  
transfer the day-to-day administration of the Program of 75796  
All-Inclusive Care for the Elderly, known as PACE, in accordance 75797  
with 42 U.S.C. 1396u-4, to the Department of Aging. If the United 75798  
States Secretary approves the transfer, the Directors of Job and 75799  
Family Services and Aging may enter into an interagency agreement 75800  
under section 5111.86 of the Revised Code to transfer 75801  
responsibility for the day-to-day administration of PACE from the 75802  
Department of Job and Family Services to the Department of Aging. 75803  
The interagency agreement is subject to the approval of the 75804  
Director of Budget and Management and shall include an estimated 75805  
cost of services to be provided under PACE and an estimated cost 75806  
for the administrative duties assigned by the agreement to the 75807  
Department of Aging. 75808

If the Directors of Job and Family Services and Aging enter 75809  
into the interagency agreement, the Director of Budget and 75810  
Management shall reduce the amount in appropriation item 600-525, 75811  
Health Care/Medicaid, by the estimated costs of PACE. If the 75812  
Director of Budget and Management makes the reduction, the state 75813  
and federal share of the estimated costs of PACE services and 75814  
administration is hereby appropriated to the Department of Aging. 75815  
The Director of Budget and Management shall establish a new 75816  
appropriation item for the appropriation. 75817

**Section 58.16.** MEDICAID ELIGIBILITY REDUCTIONS 75818

The Director of Job and Family Services shall, not later than 75819  
ninety days after the effective date of this section, submit to 75820  
the United States Secretary of Health and Human Services an 75821  
amendment to the state Medicaid plan to eliminate the expansion of 75822  
eligibility required by the version of section 5111.019 of the 75823  
Revised Code that existed prior to the amendment made by this act. 75824  
The reduction in eligibility mandated by this section shall be 75825  
implemented not earlier than October 1, 2003, and not later than 75826  
the effective date of federal approval. 75827

**Section 58.18.** APPROPRIATIONS FROM FUND 3V0 75828

Upon the request of the Department of Job and Family 75829  
Services, the Director of Budget and Management may increase 75830  
appropriations in either appropriation item 600-662, WIA Ohio 75831  
Option #7, Fund 3V0 or in appropriation item 600-688, Workforce 75832  
Investment Act, Fund 3V0, with a corresponding decrease in the 75833  
other appropriation item supported by Fund 3V0 to allow counties 75834  
that administer the Workforce Investment Act as a conventional 75835  
county to administer the Act as an Ohio Option county or to allow 75836  
counties that administer the Workforce Investment Act as an Ohio 75837  
Option county to administer the Act as a conventional county. 75838

JOBS FOR OHIO GRADUATES PROGRAM 75839

Pursuant to an interagency agreement entered into between the 75840  
Department of Job and Family Services and the Department of 75841  
Education, \$1,750,000 from Workforce Investment Act funds (Fund 75842  
3V0), reserved for statewide workforce investment activities, in 75843  
fiscal year 2004 and fiscal year 2005, shall be used to support 75844  
the Jobs for Ohio Graduates programs administered by the 75845  
Department of Education. 75846

**Section 58.19.** FEDERAL UNEMPLOYMENT PROGRAMS 75847

There is hereby appropriated out of funds made available to 75848

the state under section 903(d) of the Social Security Act, as 75849  
amended, \$53,700,000 for fiscal year 2004 and \$47,300,000 for 75850  
fiscal year 2005. Upon the request of the Director of Job and 75851  
Family Services, the Director of Budget and Management shall 75852  
increase the appropriation for fiscal year 2004 by the amount 75853  
remaining unspent from the fiscal year 2003 appropriation and 75854  
shall increase the appropriation for fiscal year 2005 by the 75855  
amount remaining unspent from the fiscal year 2004 appropriation. 75856  
The appropriation is to be used under the direction of the 75857  
Department of Job and Family Services to pay for administrative 75858  
activities for the Unemployment Insurance Program, employment 75859  
services, and other allowable expenditures under section 903(d) of 75860  
the Social Security Act, as amended. 75861

The amounts obligated pursuant to this section shall not 75862  
exceed at any time the amount by which the aggregate of the 75863  
amounts transferred to the account of the state pursuant to 75864  
section 903(d) of the Social Security Act, as amended, exceeds the 75865  
aggregate of the amounts obligated for administration and paid out 75866  
for benefits and required by law to be charged against the amounts 75867  
transferred to the account of the state. 75868

Of the appropriation item 600-678, Federal Unemployment 75869  
Programs, in Section 63 of Am. Sub. H.B. 94 of the 124th General 75870  
Assembly, as amended, up to \$18,000,000 in fiscal year 2004 and up 75871  
to \$18,000,000 in fiscal year 2005 shall be used by the Department 75872  
of Job and Family Services to reimburse the General Revenue Fund, 75873  
through state intrastate transfer vouchers, for expenses incurred 75874  
on or after the effective date of this section from the General 75875  
Revenue Fund for the aforementioned programs as reported to the 75876  
federal government as allowable expenditures. 75877

**Section 58.20. MEDICAID PAYMENT TO CHILDREN'S HOSPITALS** 75878

As used in this section, "children's hospital" has the same 75879

meaning as in section 3702.51 of the Revised Code. 75880

For fiscal years 2004 and 2005, the Medicaid payment to 75881  
children's hospitals shall include the adjustment for inflation 75882  
provided for by paragraph (G) of rule 5101:3-2-074 of the 75883  
Administrative Code as that paragraph existed on December 30, 75884  
2002. 75885

The Department of Job and Family Services shall pay to each 75886  
children's hospital participating in the Medicaid program an 75887  
amount equal to the difference between (1) the amount the hospital 75888  
would have been paid under rule 5101:3-2-074 of the Administrative 75889  
Code for the period beginning January 1, 2003, and ending May 31, 75890  
2003, if the amendment to paragraph (G) of that rule that went 75891  
into effect on December 31, 2002, had not gone into effect and (2) 75892  
the amount that the hospital was paid under that rule for that 75893  
period. 75894

**Section 58.20a. MEDICAID PAYMENTS FOR OUTPATIENT HOSPITAL 75895**  
SERVICES 75896

As used in this section, "hospital" does not include a 75897  
children's hospital as defined in the section of this act titled 75898  
MEDICAID PAYMENT TO CHILDREN'S HOSPITALS. 75899

The Department of Job and Family Services shall increase the 75900  
total amount the Department pays all hospitals under the Medicaid 75901  
Program for outpatient services provided during the period 75902  
beginning July 1, 2003, and ending June 30, 2004, to the maximum 75903  
extent possible using \$9,811,136 from the foregoing appropriation 75904  
item 600-525, Health Care/Medicaid. The Department of Job and 75905  
Family Services shall also increase the total amount the 75906  
Department pays all hospitals under the Medicaid Program for 75907  
outpatient services provided during the period beginning July 1, 75908  
2004, and ending June 30, 2005, to the maximum extent possible 75909  
using \$9,811,136 from the foregoing appropriation item 600-525, 75910

Health Care/Medicaid. The Department shall make the increase in 75911  
accordance with an inflation adjustment factor for outpatient 75912  
hospital services established in rules the Director of Job and 75913  
Family Services shall adopt in accordance with Chapter 119. of the 75914  
Revised Code. 75915

**Section 58.21. CHILD CARE ELIGIBILITY** 75916

Notwithstanding any other provision of law, the Director of 75917  
Job and Family Services shall not reduce the initial and continued 75918  
eligibility level for publicly funded child care below one hundred 75919  
fifty per cent of the federal poverty line during fiscal years 75920  
2004 and 2005. 75921

**Section 58.25. MEDICAID COVERAGE OF DENTAL SERVICES** 75922

For fiscal years 2004 and 2005, the Medicaid program shall 75923  
continue to cover dental services in at least the amount, 75924  
duration, and scope that it does on the effective date of this 75925  
section under rules governing Medicaid coverage of dental services 75926  
adopted under section 5111.02 of the Revised Code. 75927

**Section 58.28. WELFARE DIVERSION PROGRAMS** 75928

Of the foregoing appropriation item 600-521, Family Stability 75929  
Subsidy, prior to county distribution, \$1,250,000 in each fiscal 75930  
year shall be used to support specific welfare diversion programs. 75931  
In each fiscal year, Accountability and Credibility Together (ACT) 75932  
shall receive \$1,000,000 of the \$1,250,000 to continue its welfare 75933  
diversion program. In each fiscal year, \$250,000 of the \$1,250,000 75934  
shall be used to establish a welfare diversion demonstration 75935  
project in Butler County. 75936

**Section 58.29. OHIO COMMISSION TO REFORM MEDICAID** 75937

There is hereby established the Ohio Commission to Reform 75938

Medicaid, which shall consist of nine members: three appointed by 75939  
the Governor, three by the Speaker of the House of 75940  
Representatives, and three by the President of the Senate. 75941  
Appointments shall be made not later than ninety days after the 75942  
effective date of this section. All members shall serve at the 75943  
pleasure of the appointing authority. Members shall serve without 75944  
compensation. Vacancies shall be filled in the manner of original 75945  
appointments. 75946

The Commission shall conduct a complete review of the state 75947  
Medicaid program and shall make recommendations for comprehensive 75948  
reform and cost containment. The Commission shall submit a report 75949  
of its findings and recommendations to the Governor, Speaker, and 75950  
Senate President not later than January 1, 2005. 75951

The Commission may hire a staff director and additional 75952  
employees to provide technical support. 75953

The Director of Job and Family Services shall, on behalf of 75954  
the Commission, seek federal financial participation for the 75955  
administrative costs of the Commission. 75956

**Section 58.30.** Of the foregoing appropriation item 600-416, 75957  
Computer Projects, \$500,000 in each fiscal year shall be used by 75958  
the Department of Job and Family Services for costs associated 75959  
with staff, purchased services, equipment, and maintenance of the 75960  
Statewide Automated Child Welfare Information System (SACWIS). 75961  
These earmarked dollars are intended to supplement appropriations 75962  
in appropriation item 600-423, Office of Children and Families, 75963  
that are used for SACWIS. These earmarked dollars shall be in 75964  
addition to any other amounts that the Department plans to spend 75965  
on SACWIS. The Department shall plan its spending on SACWIS from 75966  
appropriation item 600-416, Computer Projects, without regard to 75967  
this earmark. 75968



Section 58.31. MEDICAID REIMBURSEMENT RATES FOR NURSING	75969
FACILITIES	75970
(A) As used in this section:	75971
(1) "Change of operator," "entering operator," and "exiting operator," have the same meaning as in section 5111.65 of the Revised Code.	75972 75973 75974
(2) "Medicaid day" means all days during which a resident who is a Medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. Therapeutic or hospital leave days for which payment would be made under section 5111.33 of the Revised Code if not for this section are considered Medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days.	75975 75976 75977 75978 75979 75980 75981 75982 75983
(3) "Nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the Director of Health in accordance with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, participates in the Medicaid program established under Chapter 5111. of the Revised Code, and is not an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a nursing facility by the Director of Health in accordance with Title XIX of the "Social Security Act," is certified as a skilled nursing facility by the Director in accordance with Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended, and participates in the Medicaid program established under Chapter 5111. of the Revised Code.	75984 75985 75986 75987 75988 75989 75990 75991 75992 75993 75994 75995 75996 75997 75998

(4) "Provider" and "provider agreement" have the same meaning as in section 5111.20 of the Revised Code. 75999  
76000

(B) Notwithstanding Chapter 5111. of the Revised Code or any other state law to the contrary and subject to division (F) of this section, the Medicaid reimbursement rate for nursing facility services provided to a Medicaid recipient during the period beginning July 1, 2003, and ending June 30, 2004, shall be as follows: 76001  
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(1) If the provider has a valid provider agreement regarding the nursing facility on June 30, 2003, the provider's rate for the nursing facility shall be the same as the provider's rate for the nursing facility in effect on June 30, 2003, increased in accordance with division (C) of this section; 76007  
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(2) If the nursing facility undergoes a change of operator on July 1, 2003, the entering operator's rate for the nursing facility shall be the same as the exiting operator's rate for the nursing facility that is in effect on June 30, 2003, increased in accordance with division (C) of this section; 76012  
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(3) If the nursing facility undergoes a change of operator after July 1, 2003, and before July 1, 2004, the entering operator's rate for the nursing facility shall be the same as the exiting operator's rate for the nursing facility that is in effect on the day before the effective date of the entering operator's provider agreement; 76017  
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76019  
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(4) If the nursing facility both obtains initial certification as a nursing facility from the Director of Health and begins participation in the Medicaid program after June 30, 2003, the provider's rate for the nursing facility shall be the median of all rates paid to nursing facilities on July 1, 2003; 76023  
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(5) If one or more Medicaid certified beds are added to the nursing facility on July 1, 2003, the provider's rate for the 76028  
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added beds shall be the same as the provider's rate that is in 76030  
effect on June 30, 2003, for the Medicaid certified beds that are 76031  
in the nursing facility on June 30, 2003, increased in accordance 76032  
with division (C) of this section; 76033

(6) If one or more Medicaid certified beds are added to the 76034  
nursing facility after July 1, 2003, and before July 1, 2004, the 76035  
provider's rate for the added beds shall be the same as the 76036  
provider's rate for the Medicaid certified beds that are in the 76037  
nursing facility on the day before the new beds are added. 76038

(C) For the purpose of divisions (B)(1), (2), and (5) of this 76039  
section and in accordance with rules the Director of Job and 76040  
Family Services shall adopt in accordance with Chapter 119. of the 76041  
Revised Code, the Department of Job and Family Services shall 76042  
increase the Medicaid reimbursement rate for nursing facility 76043  
services provided to a Medicaid recipient during the period 76044  
beginning July 1, 2003, and ending June 30, 2004, as follows: 76045

(1) To the maximum extent possible using \$16,489,281 from the 76046  
foregoing appropriation item 600-525, Health Care/Medicaid. 76047

(2) By forty-five cents per Medicaid day using \$11,763,298 76048  
from the foregoing appropriation item 600-608, Medicaid-Nursing 76049  
Facilities, and \$16,809,201 from the foregoing appropriation item 76050  
600-623, Health Care Federal; 76051

(3) To the maximum extent possible using the funds specified 76052  
in division (C)(2) of this section that remain after the increase 76053  
is made under that division. 76054

(D) Notwithstanding Chapter 5111. of the Revised Code or any 76055  
other state law to the contrary and subject to division (F) of 76056  
this section, the Medicaid reimbursement rate for nursing facility 76057  
services provided to a Medicaid recipient during the period 76058  
beginning July 1, 2004, and ending June 30, 2005, shall be as 76059  
follows: 76060

(1) If the provider has a valid provider agreement regarding the nursing facility on June 30, 2004, the provider's rate for the nursing facility shall be the same as the provider's rate for the nursing facility in effect on June 30, 2004, increased in accordance with division (E) of this section;

(2) If the nursing facility undergoes a change of operator on July 1, 2004, the entering operator's rate for the nursing facility shall be the same as the exiting operator's rate for the nursing facility that is in effect on June 30, 2004, increased in accordance with division (E) of this section;

(3) If the nursing facility undergoes a change of operator after July 1, 2004, the entering operator's rate for the nursing facility shall be the same as the exiting operator's rate for the nursing facility that is in effect on the day before the effective date of the entering operator's provider agreement;

(4) If the nursing facility both obtains initial certification as a nursing facility from the Director of Health and begins participation in the Medicaid program after June 30, 2004, the provider's rate for the nursing facility shall be the median of all rates paid to nursing facilities on July 1, 2004;

(5) If one or more Medicaid certified beds are added to the nursing facility on July 1, 2004, the provider's rate for the added beds shall be the same as the provider's rate that is in effect on June 30, 2004, for the Medicaid certified beds that are in the nursing facility on June 30, 2004, increased in accordance with division (E) of this section;

(6) If one or more Medicaid certified beds are added to the nursing facility after July 1, 2004, the provider's rate for the added beds shall be the same as the provider's rate for the Medicaid certified beds that are in the nursing facility on the day before the new beds are added.

(E) For the purpose of divisions (D)(1), (2), and (5) of this section and in accordance with rules the Director of Job and Family Services shall adopt in accordance with Chapter 119. of the Revised Code, the Department of Job and Family Services shall increase the Medicaid reimbursement rate for nursing facility services provided to a Medicaid recipient during the period beginning July 1, 2004, and ending June 30, 2005, as follows:

(1) To the maximum extent possible using \$93,591,290 from the foregoing appropriation item 600-525, Health Care/Medicaid.

(2) By twenty cents per Medicaid day using \$20,912,529 from the foregoing appropriation item 600-608, Medicaid-Nursing Facilities, and \$29,883,024 from the foregoing appropriation item 600-623, Health Care Federal;

(3) To the maximum extent possible using the funds specified in division (E)(2) of this section that remain after the increase is made under that division.

(F) A nursing facility's reimbursement rate for services provided to a Medicaid recipient during any part of the period beginning July 1, 2003, and ending June 30, 2005, shall be adjusted to reflect each audit adjustment made to each cost report used to establish the June 30, 2003, rate on which the nursing facility's reimbursement rate for services provided during any part of the period beginning July 1, 2003, and ending June 30, 2005, is based. This division does not affect a nursing facility's reimbursement rate determined under division (B)(4) or (D)(4) of this section.

**Section 58.32. MEDICAID REIMBURSEMENT RATES FOR ICFs/MR**

(A) As used in this section:

(1) "Change of operator," "entering operator," and "exiting operator" have the same meaning as in section 5111.65 of the

Revised Code. 76122

(2) "Intermediate care facility for the mentally retarded" 76123  
means an intermediate care facility for the mentally retarded 76124  
certified as in compliance with applicable standards for the 76125  
Medicaid program by the Director of Health in accordance with 76126  
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 76127  
U.S.C. 1396, as amended, and participates in the Medicaid program 76128  
established under Chapter 5111. of the Revised Code, except that 76129  
it does not include an intermediate care facility for the mentally 76130  
retarded that is operated by the Department of Mental Retardation 76131  
and Developmental Disabilities and has its Medicaid reimbursement 76132  
rate computed in accordance with section 5111.291 of the Revised 76133  
Code. 76134

(3) "Medicaid day" means all days during which a resident who 76135  
is a Medicaid recipient occupies a bed in an intermediate care 76136  
facility for the mentally retarded that is included in the 76137  
facility's certified capacity under Title XIX of the "Social 76138  
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 76139  
Therapeutic or hospital leave days for which payment would be made 76140  
under section 5111.33 of the Revised Code if not for this section 76141  
are considered Medicaid days proportionate to the percentage of 76142  
the intermediate care facility for the mentally retarded's per 76143  
resident per day rate paid for those days. 76144

(4) "Provider" and "provider agreement" have the same meaning 76145  
as in section 5111.20 of the Revised Code. 76146

(B) Notwithstanding Chapter 5111. of the Revised Code or any 76147  
other state law to the contrary and subject to division (F) of 76148  
this section, the Medicaid reimbursement rate for intermediate 76149  
care facility services for the mentally retarded provided to a 76150  
Medicaid recipient during the period beginning July 1, 2003, and 76151  
ending June 30, 2004, shall be as follows: 76152

(1) If the provider has a valid provider agreement regarding the intermediate care facility for the mentally retarded on June 30, 2003, the provider's rate for the facility shall be the same as the provider's rate for the facility in effect on June 30, 2003, increased in accordance with division (C) of this section;

(2) If the intermediate care facility for the mentally retarded undergoes a change of operator on July 1, 2003, the entering operator's rate for the facility shall be the same as the exiting operator's rate for the facility that is in effect on June 30, 2003, increased in accordance with division (C) of this section;

(3) If the intermediate care facility for the mentally retarded undergoes a change of operator after July 1, 2003, and before July 1, 2004, the entering operator's rate for the facility shall be the same as the exiting operator's rate for the facility that is in effect on the day before the effective date of the entering operator's provider agreement;

(4) If the intermediate care facility for the mentally retarded both obtains initial certification as an intermediate care facility for the mentally retarded from the Director of Health and begins participation in the Medicaid program after June 30, 2003, the provider's rate for the facility shall be the median of all rates paid to intermediate care facilities for the mentally retarded on July 1, 2003;

(5) If one or more Medicaid certified beds are added to the intermediate care facility for the mentally retarded on July 1, 2003, the provider's rate for the added beds shall be the same as the provider's rate that is in effect on June 30, 2003, for the Medicaid certified beds that are in the facility on June 30, 2003, increased in accordance with division (C) of this section;

(6) If one or more Medicaid certified beds are added to the

intermediate care facility for the mentally retarded after July 1, 76184  
2003, and before July 1, 2004, the provider's rate for the added 76185  
beds shall be the same as the provider's rate for the Medicaid 76186  
certified beds that are in facility on the day before the new beds 76187  
are added. 76188

(C) For the purpose of divisions (B)(1), (2), and (5) of this 76189  
section and in accordance with rules the Director of Job and 76190  
Family Services shall adopt in accordance with Chapter 119. of the 76191  
Revised Code, the Department of Job and Family Services shall 76192  
increase the Medicaid reimbursement rate for intermediate care 76193  
facility services for the mentally retarded provided to a Medicaid 76194  
recipient during the period beginning July 1, 2003, and ending 76195  
June 30, 2004, to the maximum extent possible using \$2,516,128 76196  
from the foregoing appropriation item 600-525, Health 76197  
Care/Medicaid. However, no intermediate care facility for the 76198  
mentally retarded's Medicaid reimbursement rate for that period 76199  
shall exceed one hundred two per cent of its rate on June 30, 76200  
2003. 76201

(D) Notwithstanding Chapter 5111. of the Revised Code or any 76202  
other state law to the contrary and subject to division (F) of 76203  
this section, the Medicaid reimbursement rate for intermediate 76204  
care facility services for the mentally retarded provided to a 76205  
Medicaid recipient during the period beginning July 1, 2004, and 76206  
ending June 30, 2005, shall be as follows: 76207

(1) If the provider has a valid provider agreement regarding 76208  
the intermediate care facility for the mentally retarded on June 76209  
30, 2004, the provider's rate for the facility shall be the same 76210  
as the provider's rate for the facility in effect on June 30, 76211  
2004, increased in accordance with division (E) of this section; 76212

(2) If the intermediate care facility for the mentally 76213  
retarded undergoes a change of operator on July 1, 2004, the 76214  
entering operator's rate for the facility shall be the same as the 76215



exiting operator's rate for the facility that is in effect on June 76216  
30, 2004, increased in accordance with division (E) of this 76217  
section; 76218

(3) If the intermediate care facility for the mentally 76219  
retarded undergoes a change of operator after July 1, 2004, the 76220  
entering operator's rate for the facility shall be the same as the 76221  
exiting operator's rate for the facility that is in effect on the 76222  
day before the effective date of the entering operator's provider 76223  
agreement; 76224

(4) If the intermediate care facility for the mentally 76225  
retarded both obtains initial certification as an intermediate 76226  
care facility for the mentally retarded from the Director of 76227  
Health and begins participation in the Medicaid program after June 76228  
30, 2004, the provider's rate for the facility shall be the median 76229  
of all rates paid to intermediate care facilities for the mentally 76230  
retarded on July 1, 2004; 76231

(5) If one or more Medicaid certified beds are added to the 76232  
intermediate care facility for the mentally retarded on July 1, 76233  
2004, the provider's rate for the added beds shall be the same as 76234  
the provider's rate that is in effect on June 30, 2004, for the 76235  
Medicaid certified beds that are in the facility on June 30, 2004, 76236  
increased in accordance with division (E) of this section; 76237

(6) If one or more Medicaid certified beds are added to the 76238  
intermediate care facility for the mentally retarded after July 1, 76239  
2004, the provider's rate for the added beds shall be the same as 76240  
the provider's rate for the Medicaid certified beds that are in 76241  
facility on the day before the new beds are added. 76242

(E) For the purpose of divisions (D)(1), (2), and (5) of this 76243  
section and in accordance with rules the Director of Job and 76244  
Family Services shall adopt in accordance with Chapter 119. of the 76245  
Revised Code, the Department of Job and Family Services shall 76246

increase the Medicaid reimbursement rate for intermediate care 76247  
facility services for the mentally retarded provided to a Medicaid 76248  
recipient during the period beginning July 1, 2004, and ending 76249  
June 30, 2005, to the maximum extent possible using \$11,153,895 76250  
from the foregoing appropriation item 600-525, Health 76251  
Care/Medicaid. However, no intermediate care facility for the 76252  
mentally retarded's Medicaid reimbursement rate for that period 76253  
shall exceed one hundred two per cent of its rate on June 30, 76254  
2004. 76255

(F) The reimbursement rate of an intermediate care facility 76256  
for the mentally retarded for services provided to a Medicaid 76257  
recipient during any part of the period beginning July 1, 2003, 76258  
and ending June 30, 2005, shall be adjusted to reflect each audit 76259  
adjustment made to each cost report used to establish the June 30, 76260  
2003, rate on which the facility's reimbursement rate for services 76261  
provided during any part of the period beginning July 1, 2003, and 76262  
ending June 30, 2005, is based. This division does not affect the 76263  
reimbursement rate of an intermediate care facility for the 76264  
mentally retarded determined under division (B)(4) or (D)(4) of 76265  
this section. 76266

**Section 58.33. DISABILITY ASSISTANCE TRANSITION** 76267

(A) Subject to the provisions of Chapter 5115. of the Revised 76268  
Code, as amended, enacted, and repealed by this act, the 76269  
Disability Financial Assistance Program constitutes a continuation 76270  
of the financial assistance component of the Disability Assistance 76271  
Program established under Chapter 5115. of the Revised Code, as it 76272  
existed prior to the effective date of this section, and the 76273  
Disability Medical Assistance Program constitutes a continuation 76274  
of the medical assistance component of the Disability Assistance 76275  
Program. 76276

Any business commenced but not completed on behalf of the 76277

Disability Assistance Program shall be completed in the same 76278  
manner, and with the same effect, on behalf of the Disability 76279  
Financial Assistance Program and the Disability Medical Assistance 76280  
Program. 76281

Except as provided in divisions (B) and (C) of this section, 76282  
all rules, orders, and determinations regarding the Disability 76283  
Assistance Program continue in effect as rules, orders, and 76284  
determinations regarding the Disability Financial Assistance 76285  
Program and the Disability Medical Assistance Program, until 76286  
modified or rescinded. 76287

Wherever the Disability Assistance Program is referred to in 76288  
any law, contract, or other document, the reference shall be 76289  
deemed to refer to the Disability Financial Assistance Program or 76290  
the Disability Medical Assistance Program, whichever is 76291  
appropriate. 76292

(B) Notwithstanding any determination through administrative 76293  
or judicial order or otherwise, a person who was receiving 76294  
financial assistance under the Disability Assistance Program prior 76295  
to the effective date of this section ceases to be eligible for 76296  
continued financial assistance under the Disability Financial 76297  
Assistance Program on the effective date of this section, unless 76298  
one of the following is the case: 76299

(1) The person was receiving the assistance on the basis of 76300  
being age 60 or older or on the basis of being unable to do any 76301  
substantial or gainful activity by reason of a medically 76302  
determinable physical or mental impairment that can be expected to 76303  
result in death or has lasted or can be expected to last for not 76304  
less than nine months. 76305

(2) The person was receiving the assistance by meeting other 76306  
eligibility requirements but applies for Disability Financial 76307  
Assistance pursuant to section 5115.05 of the Revised Code, as 76308

amended by this act, and receives a determination of eligibility 76309  
by meeting the requirements specified in section 5115.01 of the 76310  
Revised Code, as amended by this act. 76311

(C) Notwithstanding the provisions of section 5115.10 of the 76312  
Revised Code, as amended by this act, that limit eligibility for 76313  
disability medical assistance to persons determined to be 76314  
medication dependent, both of the following apply: 76315

(1) The Director of Job and Family Services may adopt rules 76316  
in accordance with section 111.15 of the Revised Code providing 76317  
for and governing temporary provision of disability medical 76318  
assistance to persons who were recipients of medical assistance 76319  
under the Disability Assistance Program prior to the effective 76320  
date of this section. 76321

(2) A person's eligibility for disability medical assistance 76322  
may continue pursuant to the rules adopted under division (C)(1) 76323  
of this section until the state or county department of job and 76324  
family services conducts a redetermination of the person's 76325  
eligibility in accordance with the requirement that recipients be 76326  
medication dependent, unless the person otherwise becomes 76327  
ineligible for disability medical assistance. 76328

**Section 58.34.** Of the foregoing appropriation item 600-689, 76329  
TANF Block Grant, \$57,170,000 in fiscal year 2004 shall be used 76330  
for the Head Start Program pursuant to an interagency agreement 76331  
entered into by Department of Job and Family Services and the 76332  
Department of Education under division (A)(2) of section 5101.801 76333  
of the Revised Code. Of that amount, \$5,000,000 shall be used to 76334  
increase the number of Head Start slots in fiscal year 2004. 76335

Of the foregoing appropriation item 600-689, TANF Block 76336  
Grant, \$110,184,000 in fiscal year 2005 shall be used for the Head 76337  
Start Plus Program pursuant to an interagency agreement entered 76338  
into by Department of Job and Family Services and the Department 76339

of Education under division (A)(2) of section 5101.801 of the Revised Code. Of that amount, \$5,000,000 shall be used to ensure that Head Start Plus provider payments are at least \$8,500 per year in fiscal year 2005.

**Section 59.** JCO JUDICIAL CONFERENCE OF OHIO

General Revenue Fund  
GRF 018-321 Operating Expenses \$ 962,000 \$ 957,000  
TOTAL GRF General Revenue Fund \$ 962,000 \$ 957,000  
General Services Fund Group  
403 018-601 Ohio Jury Instructions \$ 200,000 \$ 200,000  
TOTAL GSF General Services Fund \$ 200,000 \$ 200,000  
Group  
TOTAL ALL BUDGET FUND GROUPS \$ 1,162,000 \$ 1,157,000

STATE COUNCIL OF UNIFORM STATE LAWS

Notwithstanding section 105.26 of the Revised Code, of the foregoing appropriation item 018-321, Operating Expenses, up to \$63,000 in fiscal year 2004 and up to \$66,000 in fiscal year 2005 may be used to pay the expenses of the State Council of Uniform State Laws, including membership dues to the National Conference of Commissioners on Uniform State Laws.

OHIO JURY INSTRUCTIONS FUND

The Ohio Jury Instructions Fund (Fund 403) shall consist of grants, royalties, dues, conference fees, bequests, devises, and other gifts received for the purpose of supporting costs incurred by the Judicial Conference of Ohio in dispensing educational and informational data to the state's judicial system. Fund 403 shall be used by the Judicial Conference of Ohio to pay expenses incurred in dispensing educational and informational data to the state's judicial system. All moneys accruing to Fund 403 in excess of \$200,000 in fiscal year 2004 and in excess of \$200,000 in

fiscal year 2005 are hereby appropriated for the purposes 76369  
 authorized. 76370

No money in the Ohio Jury Instructions Fund shall be 76371  
 transferred to any other fund by the Director of Budget and 76372  
 Management or the Controlling Board. 76373

**Section 60. JSC THE JUDICIARY/SUPREME COURT** 76374

General Revenue Fund 76375

GRF 005-321 Operating Expenses - \$ 113,636,659 \$ 118,401,294 76376  
 Judiciary/Supreme  
 Court

GRF 005-401 State Criminal \$ 346,194 \$ 356,371 76377  
 Sentencing Council

GRF 005-406 Law-Related Education \$ 209,836 \$ 216,131 76378

TOTAL GRF General Revenue Fund \$ 114,192,689 \$ 118,973,796 76379

General Services Fund Group 76380

672 005-601 Continuing Judicial \$ 126,000 \$ 120,000 76381  
 Education

TOTAL GSF General Services Fund \$ 126,000 \$ 120,000 76382  
 Group

Federal Special Revenue Fund Group 76383

3J0 005-603 Federal Grants \$ 1,030,061 \$ 1,030,061 76384

TOTAL FED Federal Special Revenue \$ 1,030,061 \$ 1,030,061 76385  
 Fund Group

State Special Revenue Fund Group 76386

4C8 005-605 Attorney Registration \$ 2,332,733 \$ 2,495,171 76387

5T8 005-609 Grants and Awards \$ 33,296 \$ 33,296 76388

6A8 005-606 Supreme Court \$ 1,230,514 \$ 1,267,428 76389  
 Admissions

643 005-607 Commission on \$ 568,788 \$ 587,210 76390  
 Continuing Legal



moneys directly from the United States Government and distribute 76420  
those moneys to the Supreme Court (The Judiciary). The foregoing 76421  
appropriation item 005-603, Federal Grants, shall be used in a 76422  
manner consistent with the purpose of the grant or award. If it is 76423  
determined by the Administrative Director of the Supreme Court 76424  
that additional appropriations are necessary, the amounts are 76425  
hereby appropriated. 76426

No money in the Federal Grants Fund shall be transferred to 76427  
any other fund by the Director of Budget and Management or the 76428  
Controlling Board. However, interest earned on moneys in the 76429  
Federal Grants Fund shall be credited or transferred to the 76430  
General Revenue Fund. 76431

ATTORNEY REGISTRATION 76432

In addition to funding other activities considered 76433  
appropriate by the Supreme Court, the foregoing appropriation item 76434  
005-605, Attorney Registration, may be used to compensate 76435  
employees and fund the appropriate activities of the following 76436  
offices established by the Supreme Court pursuant to the Rules for 76437  
the Government of the Bar of Ohio: the Office of Disciplinary 76438  
Counsel, the Board of Commissioners on Grievances and Discipline, 76439  
the Clients' Security Fund, the Board of Commissioners on the 76440  
Unauthorized Practice of Law, and the Office of Attorney 76441  
Registration. If it is determined by the Administrative Director 76442  
of the Supreme Court that additional appropriations are necessary, 76443  
the amounts are hereby appropriated. 76444

No moneys in the Attorney Registration Fund shall be 76445  
transferred to any other fund by the Director of Budget and 76446  
Management or the Controlling Board. Interest earned on moneys in 76447  
the Attorney Registration Fund shall be credited to the fund. 76448

GRANTS AND AWARDS 76449

The Grants and Awards Fund (Fund 5T8) shall consist of grants 76450



and other moneys awarded to the Supreme Court (The Judiciary) by 76451  
the State Justice Institute, the Office of Criminal Justice 76452  
Services, or other entities. The foregoing appropriation item 76453  
005-609, Grants and Awards, shall be used in a manner consistent 76454  
with the purpose of the grant or award. If it is determined by the 76455  
Administrative Director of the Supreme Court that additional 76456  
appropriations are necessary, the amounts are hereby appropriated. 76457

No moneys in the Grants and Awards Fund shall be transferred 76458  
to any other fund by the Director of Budget and Management or the 76459  
Controlling Board. However, interest earned on moneys in the 76460  
Grants and Awards Fund shall be credited or transferred to the 76461  
General Revenue Fund. 76462

SUPREME COURT ADMISSIONS 76463

The foregoing appropriation item 005-606, Supreme Court 76464  
Admissions, shall be used to compensate Supreme Court employees 76465  
who are primarily responsible for administering the attorney 76466  
admissions program, pursuant to the Rules for the Government of 76467  
the Bar of Ohio, and to fund any other activities considered 76468  
appropriate by the court. Moneys shall be deposited into the 76469  
Supreme Court Admissions Fund (Fund 6A8) pursuant to the Supreme 76470  
Court Rules for the Government of the Bar of Ohio. If it is 76471  
determined by the Administrative Director of the Supreme Court 76472  
that additional appropriations are necessary, the amounts are 76473  
hereby appropriated. 76474

No moneys in the Supreme Court Admissions Fund shall be 76475  
transferred to any other fund by the Director of Budget and 76476  
Management or the Controlling Board. Interest earned on moneys in 76477  
the Supreme Court Admissions Fund shall be credited to the fund. 76478

CONTINUING LEGAL EDUCATION 76479

The foregoing appropriation item 005-607, Commission on 76480  
Continuing Legal Education, shall be used to compensate employees 76481

of the Commission on Continuing Legal Education, established 76482  
pursuant to the Supreme Court Rules for the Government of the Bar 76483  
of Ohio, and to fund other activities of the commission considered 76484  
appropriate by the court. If it is determined by the 76485  
Administrative Director of the Supreme Court that additional 76486  
appropriations are necessary, the amounts are hereby appropriated. 76487

No moneys in the Continuing Legal Education Fund shall be 76488  
transferred to any other fund by the Director of Budget and 76489  
Management or the Controlling Board. Interest earned on moneys in 76490  
the Continuing Legal Education Fund shall be credited to the fund. 76491

**Section 61. LEC LAKE ERIE COMMISSION** 76492

State Special Revenue Fund Group 76493

4C0 780-601 Lake Erie Protection \$ 1,070,975 \$ 1,070,975 76494  
Fund

5D8 780-602 Lake Erie Resources \$ 689,004 \$ 689,004 76495  
Fund

TOTAL SSR State Special Revenue 76496

Fund Group \$ 1,759,979 \$ 1,759,979 76497

TOTAL ALL BUDGET FUND GROUPS \$ 1,759,979 \$ 1,759,979 76498

**CASH TRANSFER** 76499

Not later than the thirtieth day of November of each fiscal 76500  
year, the Executive Director of the Ohio Lake Erie Office, with 76501  
the approval of the Lake Erie Commission, shall certify to the 76502  
Director of Budget and Management the cash balance in the Lake 76503  
Erie Resources Fund (Fund 5D8) in excess of amounts needed to meet 76504  
operating expenses of the Lake Erie Office. The Ohio Lake Erie 76505  
Office may request the Director of Budget and Management to 76506  
transfer up to the certified amount from the Lake Erie Resources 76507  
Fund (Fund 5D8) to the Lake Erie Protection Fund (Fund 4C0). The 76508  
Director of Budget and Management may transfer the requested 76509  
amount, or the Director may transfer a different amount up to the 76510

certified amount. Cash transferred shall be used for the purposes 76511  
 described in division (A) of section 1506.23 of the Revised Code. 76512  
 The amount transferred by the director is appropriated to the 76513  
 foregoing appropriation item 780-601, Lake Erie Protection Fund, 76514  
 which shall be increased by the amount transferred. 76515

**Section 62. LRS LEGAL RIGHTS SERVICE** 76516

General Revenue Fund 76517

GRF 054-100 Personal Services	\$	193,514	\$	193,514	76518
GRF 054-200 Maintenance	\$	33,938	\$	33,938	76519
GRF 054-300 Equipment	\$	1,856	\$	1,856	76520
GRF 054-401 Ombudsman	\$	291,247	\$	291,247	76521
TOTAL GRF General Revenue Fund	\$	520,555	\$	520,555	76522

General Services Fund Group 76523

416 054-601 Gifts and Donations	\$	1,352	\$	1,352	76524
5M0 054-610 Settlements	\$	75,000	\$	75,000	76525
TOTAL GSF General Services					76526
Fund Group	\$	76,352	\$	76,352	76527

Federal Special Revenue Fund Group 76528

3B8 054-603 Protection and Advocacy - Mentally Ill	\$	1,018,279	\$	1,018,279	76529
3N3 054-606 Protection and Advocacy - Individual Rights	\$	507,648	\$	507,648	76530
3N9 054-607 Assistive Technology	\$	50,000	\$	50,000	76531
3R9 054-604 Family Support Collaborative	\$	242,500	\$	242,500	76532
3T2 054-609 Client Assistance Program	\$	404,807	\$	404,807	76533
3X1 054-611 Protection and Advocacy for	\$	187,784	\$	187,784	76534

	Beneficiaries of					
	Social Security					
3Z6	054-612	Traumatic Brain Injury	\$	50,000	\$ 50,000	76535
305	054-602	Protection and	\$	1,280,363	\$ 1,280,363	76536
		Advocacy -				
		Developmentally				
		Disabled				
TOTAL FED	Federal Special Revenue					76537
Fund Group			\$	3,741,381	\$ 3,741,381	76538
TOTAL ALL BUDGET FUND GROUPS			\$	4,338,288	\$ 4,338,288	76539

**Section 63.** JLE JOINT LEGISLATIVE ETHICS COMMITTEE 76541

	General Revenue Fund					76542
GRF	028-321	Legislative Ethics	\$	550,000	\$ 550,000	76543
		Committee				
TOTAL GRF	General Revenue Fund		\$	550,000	\$ 550,000	76544
TOTAL ALL BUDGET FUND GROUPS			\$	550,000	\$ 550,000	76545

TRANSFER OF FUNDS TO GRF 76546

On July 1, 2003, or as soon thereafter as possible, the 76547  
 Director of Budget and Management shall transfer 50 per cent of 76548  
 the cash balance in the Joint Legislative Ethics Committee Fund 76549  
 (Fund 4G7) to the General Revenue Fund. On July 1, 2004, or as 76550  
 soon thereafter as possible, the Director of Budget and Management 76551  
 shall transfer all of the remaining cash balance in the Joint 76552  
 Legislative Ethics Committee Fund (Fund 4G7) to the General 76553  
 Revenue Fund. 76554

**Section 64.** LSC LEGISLATIVE SERVICE COMMISSION 76555

	General Revenue Fund					76556
GRF	035-321	Operating Expenses	\$	14,065,000	\$ 14,900,000	76557
GRF	035-402	Legislative Interns	\$	975,000	\$ 990,000	76558
GRF	035-404	Legislative Office of	\$	1,205,000	\$ 1,256,427	76559

	Education Oversight			
GRF 035-406	ATMS Replacement	\$ 20,000	\$ 20,000	76560
	Project			
GRF 035-407	Legislative Task Force	\$ 100,000	\$ 0	76561
	on Redistricting			
GRF 035-409	National Associations	\$ 430,000	\$ 441,000	76562
GRF 035-410	Legislative	\$ 3,624,200	\$ 3,624,200	76563
	Information Systems			
TOTAL GRF	General Revenue Fund	\$ 20,419,200	\$ 21,231,627	76564
	General Services Fund Group			76565
4F6 035-603	Legislative Budget	\$ 149,350	\$ 152,337	76566
	Services			
410 035-601	Sale of Publications	\$ 25,000	\$ 25,000	76567
TOTAL GSF	General Services			76568
Fund Group		\$ 174,350	\$ 177,337	76569
TOTAL ALL BUDGET FUND GROUPS		\$ 20,593,550	\$ 21,408,964	76570
	ATMS REPLACEMENT PROJECT			76571
	Of the foregoing appropriation item 035-406, ATMS Replacement			76572
	Project, any amounts not used for the ATMS project may be used to			76573
	pay the operating expenses of the Legislative Service Commission.			76574
	<b>Section 65. LIB STATE LIBRARY BOARD</b>			76575
	General Revenue Fund			76576
GRF 350-321	Operating Expenses	\$ 6,700,721	\$ 6,700,721	76577
GRF 350-400	Ohio Public Library	\$ 0	\$ 5,000,000	76578
	Information Network			
GRF 350-401	Ohioana Rental	\$ 124,816	\$ 124,816	76579
	Payments			
GRF 350-501	Cincinnati Public	\$ 584,414	\$ 569,803	76580
	Library			
GRF 350-502	Regional Library	\$ 1,194,374	\$ 1,194,374	76581
	Systems			

GRF 350-503	Cleveland Public	\$	879,042	\$	857,066	76582
	Library					
TOTAL GRF	General Revenue Fund	\$	9,483,367	\$	14,446,780	76583
	General Services Fund Group					76584
139 350-602	Intra-Agency Service	\$	9,000	\$	9,000	76585
	Charges					
4S4 350-604	OPLIN Technology	\$	6,450,000	\$	1,000,000	76586
459 350-602	Interlibrary Service	\$	2,759,661	\$	2,809,661	76587
	Charges					
TOTAL GSF	General Services					76588
	Fund Group	\$	9,218,661	\$	3,818,661	76589
	Federal Special Revenue Fund Group					76590
313 350-601	LSTA Federal	\$	5,541,647	\$	5,541,647	76591
TOTAL FED	Federal Special Revenue					76592
	Fund Group	\$	5,541,647	\$	5,541,647	76593
TOTAL ALL BUDGET FUND GROUPS		\$	24,243,675	\$	23,807,088	76594
	OHIOANA RENTAL PAYMENTS					76595
	The foregoing appropriation item 350-401, Ohioana Rental					76596
	Payments, shall be used to pay the rental expenses of the Martha					76597
	Kinney Cooper Ohioana Library Association pursuant to section					76598
	3375.61 of the Revised Code.					76599
	REGIONAL LIBRARY SYSTEMS					76600
	The foregoing appropriation item 350-502, Regional Library					76601
	Systems, shall be used to support regional library systems					76602
	eligible for funding under section 3375.90 of the Revised Code.					76603
	OHIO PUBLIC LIBRARY INFORMATION NETWORK					76604
	The foregoing appropriation items 350-604, OPLIN Technology,					76605
	and, in fiscal year 2005, 350-400, Ohio Public Library Information					76606
	Network, shall be used for an information telecommunications					76607
	network linking public libraries in the state and such others as					76608

may be certified as participants by the Ohio Public Library Information Network Board. 76609  
76610

The Ohio Public Library Information Network Board shall 76611  
consist of eleven members appointed by the State Library Board 76612  
from among the staff of public libraries and past and present 76613  
members of boards of trustees of public libraries, based on the 76614  
recommendations of the Ohio library community. The Ohio Public 76615  
Library Information Network Board, in consultation with the State 76616  
Library, shall develop a plan of operations for the network. The 76617  
board may make decisions regarding use of the foregoing OPLIN 76618  
appropriation items 350-604 and may receive and expend grants to 76619  
carry out the operations of the network in accordance with state 76620  
law and the authority to appoint and fix the compensation of a 76621  
director and necessary staff. The State Library shall be the 76622  
fiscal agent for the network and shall have fiscal accountability 76623  
for the expenditure of funds. The Ohio Public Library Information 76624  
Network Board members shall be reimbursed for actual travel and 76625  
necessary expenses incurred in carrying out their 76626  
responsibilities. 76627

In order to limit access to obscene and illegal materials 76628  
through internet use at Ohio Public Library Information Network 76629  
(OPLIN) terminals, local libraries with OPLIN computer terminals 76630  
shall adopt policies that control access to obscene and illegal 76631  
materials. These policies may include use of technological systems 76632  
to select or block certain internet access. The OPLIN shall 76633  
condition provision of its funds, goods, and services on 76634  
compliance with these policies. The OPLIN Board shall also adopt 76635  
and communicate specific recommendations to local libraries on 76636  
methods to control such improper usage. These methods may include 76637  
each library implementing a written policy controlling such 76638  
improper use of library terminals and requirements for parental 76639  
involvement or written authorization for juvenile internet usage. 76640

The OPLIN Board shall research and assist or advise local libraries with regard to emerging technologies and methods that may be effective means to control access to obscene and illegal materials. The OPLIN Executive Director shall biannually provide written reports to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate on any steps being taken by OPLIN and public libraries in the state to limit and control such improper usage as well as information on technological, legal, and law enforcement trends nationally and internationally affecting this area of public access and service.

The Ohio Public Library Information Network, InfoOhio, and OhioLink shall, to the extent feasible, coordinate and cooperate in their purchase or other acquisition of the use of electronic databases for their respective users and shall contribute funds in an equitable manner to such effort.

TRANSFER TO OPLIN TECHNOLOGY FUND

Notwithstanding sections 5747.03 and 5747.47 of the Revised Code and any other provision of law to the contrary, in accordance with a schedule established by the Director of Budget and Management, the Director of Budget and Management shall transfer up to \$5,000,000 in fiscal year 2004 from the Library and Local Government Support Fund (Fund 065) to the OPLIN Technology Fund (Fund 4S4).

**Section 66.** LCO LIQUOR CONTROL COMMISSION

Liquor Control Fund Group					
043 970-321 Operating Expenses	\$	779,886	\$	794,387	
TOTAL LCF Liquor Control Fund Group	\$	779,886	\$	794,387	
TOTAL ALL BUDGET FUND GROUPS	\$	779,886	\$	794,387	

COMPUTER EQUIPMENT



Of the foregoing appropriation item 970-321, Operating 76671  
Expenses, \$27,700 in fiscal year 2004 and \$4,500 in fiscal year 76672  
2005 shall be used for computer equipment. 76673

**Section 67. LOT STATE LOTTERY COMMISSION** 76674

State Lottery Fund Group 76675

044 950-100 Personal Services \$ 25,114,200 \$ 25,133,314 76676

044 950-200 Maintenance \$ 20,100,168 \$ 20,120,268 76677

044 950-300 Equipment \$ 3,067,250 \$ 3,113,259 76678

044 950-402 Game and Advertising \$ 68,683,000 \$ 68,683,000 76679

Contracts

044 950-500 Problem Gambling \$ 335,000 \$ 335,000 76680

Subsidy

044 950-601 Prizes, Bonuses, and \$ 166,173,455 \$ 166,173,455 76681

Commissions

871 950-602 Annuity Prizes \$ 162,228,451 \$ 162,185,260 76682

TOTAL SLF State Lottery Fund 76683

Group \$ 445,701,524 \$ 445,743,556 76684

TOTAL ALL BUDGET FUND GROUPS \$ 445,701,524 \$ 445,743,556 76685

**OPERATING EXPENSES** 76686

The Controlling Board may, at the request of the State 76687  
Lottery Commission, authorize additional appropriations for 76688  
operating expenses of the State Lottery Commission from the State 76689  
Lottery Fund up to a maximum of 15 per cent of anticipated total 76690  
revenue accruing from the sale of lottery tickets. 76691

**PRIZES, BONUSSES, AND COMMISSIONS** 76692

Any amounts, in addition to the amounts appropriated in 76693  
appropriation item 950-601, Prizes, Bonuses, and Commissions, that 76694  
are determined by the Director of the State Lottery Commission to 76695  
be necessary to fund prizes, bonuses, and commissions are hereby 76696  
appropriated. 76697

ANNUITY PRIZES 76698

With the approval of the Office of Budget and Management, the 76699  
State Lottery Commission shall transfer cash from the State 76700  
Lottery Fund Group (Fund 044) to the Deferred Prizes Trust Fund 76701  
(Fund 871) in an amount sufficient to fund deferred prizes. The 76702  
Treasurer of State, from time to time, shall credit the Deferred 76703  
Prizes Trust Fund (Fund 871) the pro rata share of interest earned 76704  
by the Treasurer of State on invested balances. 76705

Any amounts, in addition to the amounts appropriated in 76706  
appropriation item 950-602, Annuity Prizes, that are determined by 76707  
the Director of the State Lottery Commission to be necessary to 76708  
fund deferred prizes and interest earnings are hereby 76709  
appropriated. 76710

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND 76711

The Ohio Lottery Commission shall transfer an amount greater 76712  
than or equal to \$637,900,000 in fiscal year 2004 and \$637,900,000 76713  
in fiscal year 2005 to the Lottery Profits Education Fund. 76714  
Transfers from the Commission to the Lottery Profits Education 76715  
Fund shall represent the estimated net income from operations for 76716  
the Commission in fiscal year 2004 or fiscal year 2005. Transfers 76717  
by the Commission to the Lottery Profits Education Fund shall be 76718  
administered in accordance with and pursuant to the Revised Code. 76719  
The unencumbered and unallotted balances as of June 30, 2003, in 76720  
the Unclaimed Prize Fund (Fund 872), are hereby transferred to the 76721  
State Lottery Fund Group (Fund 044). 76722

**Section 68. MED STATE MEDICAL BOARD** 76723

General Services Fund Group 76724

5C6 883-609 State Medical Board \$ 7,098,956 \$ 7,199,935 76725

Operating

TOTAL GSF General Services 76726

Fund Group	\$	7,098,956	\$	7,199,935	76727
TOTAL ALL BUDGET FUND GROUPS	\$	7,098,956	\$	7,199,935	76728

**Section 69.** DMH DEPARTMENT OF MENTAL HEALTH 76730

Division of General Administration Intragovernmental Service Fund 76731  
 Group 76732

151 235-601 General Administration	\$	85,181,973	\$	85,181,973	76733
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TOTAL ISF Intragovernmental 76734

Service Fund Group	\$	85,181,973	\$	85,181,973	76735
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Division of Mental Health-- 76736

Psychiatric Services to Correctional Facilities 76737

General Revenue Fund 76738

GRF 332-401 Forensic Services	\$	4,338,858	\$	4,338,858	76739
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TOTAL GRF General Revenue Fund	\$	4,338,858	\$	4,338,858	76740
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TOTAL ALL BUDGET FUND GROUPS	\$	89,520,831	\$	89,520,831	76741
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FORENSIC SERVICES 76742

The foregoing appropriation item 322-401, Forensic Services, 76743  
 shall be used to provide psychiatric services to courts of common 76744  
 pleas. The appropriation shall be allocated through community 76745  
 mental health boards to certified community agencies and shall be 76746  
 distributed according to the criteria delineated in rule 76747  
 5122:4-1-01 of the Administrative Code. These community forensic 76748  
 funds may also be used to provide forensic training to community 76749  
 mental health boards and to forensic psychiatry residency programs 76750  
 in hospitals operated by the Department of Mental Health and to 76751  
 provide evaluations of patients of forensic status in facilities 76752  
 operated by the Department of Mental Health prior to conditional 76753  
 release to the community. 76754

In addition, appropriation item 332-401, Forensic Services, 76755  
 may be used to support projects involving mental health, substance 76756  
 abuse, courts, and law enforcement to identify and develop 76757

appropriate alternative services to institutionalization for				76758
nonviolent mentally ill offenders, and to provide linkage to				76759
community services for severely mentally disabled offenders				76760
released from institutions operated by the Department of				76761
Rehabilitation and Correction. Funds may also be utilized to				76762
provide forensic monitoring and tracking in addition to community				76763
programs serving persons of forensic status on conditional release				76764
or probation.				76765
Division of Mental Health--				76766
Administration and Statewide Programs				76767
General Revenue Fund				76768
GRF 333-321 Central Administration	\$	22,808,798	\$ 24,178,778	76769
GRF 333-402 Resident Trainees	\$	1,364,919	\$ 1,364,919	76770
GRF 333-403 Pre-Admission	\$	650,135	\$ 650,135	76771
Screening Expenses				
GRF 333-415 Lease-Rental Payments	\$	25,935,650	\$ 23,206,750	76772
GRF 333-416 Research Program	\$	1,001,551	\$ 1,001,551	76773
Evaluation				
TOTAL GRF General Revenue Fund	\$	51,761,053	\$ 50,402,133	76774
General Services Fund Group				76775
149 333-609 Central Office Rotary	\$	1,087,454	\$ 1,103,578	76776
- Operating				
TOTAL General Services Fund Group	\$	1,087,454	\$ 1,103,578	76777
Federal Special Revenue Fund Group				76778
3A7 333-612 Social Services Block	\$	25,000	\$ 0	76779
Grant				
3A8 333-613 Federal Grant -	\$	57,470	\$ 57,984	76780
Administration				
3A9 333-614 Mental Health Block	\$	827,363	\$ 835,636	76781
Grant				
3B1 333-635 Community Medicaid	\$	4,126,430	\$ 4,145,222	76782
Expansion				

324	333-605	Medicaid/Medicare	\$	523,761	\$	514,923	76783
TOTAL Federal Special Revenue							76784
Fund Group			\$	5,560,024	\$	5,553,765	76785
State Special Revenue Fund Group							76786
4X5	333-607	Behavioral Health	\$	2,913,327	\$	3,000,634	76787
Medicaid Services							
485	333-632	Mental Health	\$	134,233	\$	134,233	76788
Operating							
5M2	333-602	PWLC Campus	\$	200,000	\$	200,000	76789
Improvement							
TOTAL State Special Revenue							76790
Fund Group			\$	3,247,560	\$	3,334,867	76791
TOTAL ALL BUDGET FUND GROUPS							76792

RESIDENCY TRAINEESHIP PROGRAMS 76793

The foregoing appropriation item 333-402, Resident Trainees, 76794  
shall be used to fund training agreements entered into by the 76795  
Department of Mental Health for the development of curricula and 76796  
the provision of training programs to support public mental health 76797  
services. 76798

PRE-ADMISSION SCREENING EXPENSES 76799

The foregoing appropriation item 333-403, Pre-Admission 76800  
Screening Expenses, shall be used to pay for costs to ensure that 76801  
uniform statewide methods for pre-admission screening are in place 76802  
to perform assessments for persons in need of mental health 76803  
services or for whom institutional placement in a hospital or in 76804  
another inpatient facility is sought. Pre-admission screening 76805  
includes the following activities: pre-admission assessment, 76806  
consideration of continued stay requests, discharge planning and 76807  
referral, and adjudication of appeals and grievance procedures. 76808

LEASE-RENTAL PAYMENTS 76809

The foregoing appropriation item 333-415, Lease-Rental 76810

Payments, shall be used to meet all payments at the times they are 76811  
 required to be made during the period from July 1, 2003, to June 76812  
 30, 2005, by the Department of Mental Health pursuant to leases 76813  
 and agreements made under section 154.20 of the Revised Code, but 76814  
 limited to the aggregate amount of \$49,142,400. Nothing in this 76815  
 act shall be deemed to contravene the obligation of the state to 76816  
 pay, without necessity for further appropriation, from the sources 76817  
 pledged thereto, the bond service charges on obligations issued 76818  
 pursuant to section 154.20 of the Revised Code. 76819

**Section 69.01. DIVISION OF MENTAL HEALTH - HOSPITALS** 76820

General Revenue Fund 76821

GRF 334-408 Community and Hospital \$ 380,249,629 \$ 390,506,082 76822

Mental Health Services

GRF 334-506 Court Costs \$ 976,652 \$ 976,652 76823

TOTAL GRF General Revenue Fund \$ 381,226,281 \$ 391,482,734 76824

General Services Fund Group 76825

149 334-609 Hospital Rotary - \$ 22,908,053 \$ 24,408,053 76826

Operating Expenses

150 334-620 Special Education \$ 120,930 \$ 120,930 76827

TOTAL GSF General Services 76828

Fund Group \$ 23,028,983 \$ 24,528,983 76829

Federal Special Revenue Fund Group 76830

3B0 334-617 Elementary and \$ 248,644 \$ 251,866 76831

Secondary Education

Act

3B1 334-635 Hospital Medicaid \$ 2,000,000 \$ 2,000,000 76832

Expansion

324 334-605 Medicaid/Medicare \$ 10,484,944 \$ 10,916,925 76833

TOTAL FED Federal Special Revenue 76834

Fund Group \$ 12,733,588 \$ 13,168,791 76835

State Special Revenue Fund Group 76836

485	334-632	Mental Health	\$	2,387,253	\$	2,476,297	76837
		Operating					
5L2	334-619	Health	\$	26,000	\$	0	76838
		Foundation/Greater Cincinnati					
692	334-636	Community Mental Health Board Risk Fund	\$	100,000	\$	100,000	76839
TOTAL SSR State Special Revenue							76840
Fund Group			\$	2,513,253	\$	2,576,297	76841
TOTAL ALL BUDGET FUND GROUPS							76842
COMMUNITY MENTAL HEALTH BOARD RISK FUND							76843
The foregoing appropriation item 334-636, Community Mental Health Board Risk Fund, shall be used to make payments pursuant to section 5119.62 of the Revised Code.							76844 76845 76846
<b>Section 69.02. DIVISION OF MENTAL HEALTH - COMMUNITY SUPPORT SERVICES</b>							76847 76848
General Revenue Fund							76849
GRF	335-419	Community Medication Subsidy	\$	7,711,092	\$	7,959,798	76850
GRF	335-505	Local MH Systems of Care	\$	89,687,868	\$	89,687,868	76851
TOTAL GRF General Revenue Fund							76852
General Services Fund Group							76853
4P9	335-604	Community Mental Health Projects	\$	200,000	\$	200,000	76854
TOTAL GSF General Services							76855
Fund Group			\$	200,000	\$	200,000	76856
Federal Special Revenue Fund Group							76857
3A7	335-612	Social Services Block Grant	\$	9,314,108	\$	9,314,108	76858

3A8	335-613	Federal Grant - Community Mental Health Board Subsidy	\$	1,717,040	\$	1,717,040	76859
3A9	335-614	Mental Health Block Grant	\$	16,887,218	\$	17,056,090	76860
3B1	335-635	Community Medicaid Expansion	\$	220,472,136	\$	237,766,721	76861
TOTAL FED	Federal Special Revenue Fund Group		\$	248,390,502	\$	265,853,959	76862
	State Special Revenue Fund Group						76863
632	335-616	Community Capital Replacement	\$	250,000	\$	250,000	76864
TOTAL SSR	State Special Revenue Fund Group		\$	250,000	\$	250,000	76865
TOTAL ALL BUDGET FUND GROUPS			\$	346,239,462	\$	363,951,625	76866
DEPARTMENT TOTAL							76867
GENERAL REVENUE FUND			\$	534,725,152	\$	543,871,391	76868
DEPARTMENT TOTAL							76869
GENERAL SERVICES FUND GROUP			\$	24,316,437	\$	25,832,561	76870
DEPARTMENT TOTAL							76871
FEDERAL SPECIAL REVENUE							76872
FUND GROUP			\$	266,684,114	\$	284,576,515	76873
DEPARTMENT TOTAL							76874
STATE SPECIAL REVENUE FUND GROUP			\$	6,010,813	\$	6,161,164	76875
DEPARTMENT TOTAL							76876
INTRAGOVERNMENTAL FUND GROUP			\$	85,181,973	\$	85,181,973	76877
TOTAL DEPARTMENT OF MENTAL HEALTH			\$	916,918,489	\$	945,623,604	76878

**Section 69.03. COMMUNITY MEDICATION SUBSIDY** 76880

The foregoing appropriation item 335-419, Community Medication Subsidy, shall be used to provide subsidized support for psychotropic medication needs of indigent citizens in the 76881  
76882  
76883



community to reduce unnecessary hospitalization because of lack of 76884  
medication and to provide subsidized support for methadone costs. 76885

LOCAL MENTAL HEALTH SYSTEMS OF CARE 76886

The foregoing appropriation item 335-505, Local Mental Health 76887  
Systems of Care, shall be used for mental health services provided 76888  
by community mental health boards in accordance with a community 76889  
mental health plan submitted pursuant to section 340.03 of the 76890  
Revised Code and as approved by the Department of Mental Health. 76891

Of the foregoing appropriation, not less than \$34,818,917 in 76892  
fiscal year 2004 and not less than \$34,818,917 in fiscal year 2005 76893  
shall be distributed by the Department of Mental Health on a per 76894  
capita basis to community mental health boards. 76895

Of the foregoing appropriation, \$100,000 in each fiscal year 76896  
shall be used to fund family and consumer education and support. 76897

BEHAVIORAL HEALTH MEDICAID SERVICES 76898

The Department of Mental Health shall administer specified 76899  
Medicaid Services as delegated by the Department of Job and Family 76900  
Services in an interagency agreement. The foregoing appropriation 76901  
item 333-607, Behavioral Health Medicaid Services, may be used to 76902  
make payments for free-standing psychiatric hospital inpatient 76903  
services as defined in an interagency agreement with the 76904  
Department of Job and Family Services. 76905

**Section 70.** DMR DEPARTMENT OF MENTAL RETARDATION AND 76906  
DEVELOPMENTAL DISABILITIES 76907

**Section 70.01.** GENERAL ADMINISTRATION AND STATEWIDE SERVICES 76908

General Revenue Fund 76909

GRF 320-321 Central Administration \$ 9,174,390 \$ 9,357,878 76910

GRF 320-412 Protective Services \$ 1,911,471 \$ 2,008,330 76911

GRF 320-415 Lease-Rental Payments \$ 25,935,650 \$ 23,206,750 76912

TOTAL GRF General Revenue Fund	\$	37,021,511	\$	34,572,958	76913
General Services Fund Group					76914
4B5 320-640 Conference/Training	\$	400,000	\$	400,000	76915
TOTAL GSF General Services					76916
Fund Group	\$	400,000	\$	400,000	76917
Federal Special Revenue Fund Group					76918
3A4 320-605 Administrative Support	\$	12,492,892	\$	12,492,892	76919
3A5 320-613 DD Council Operating	\$	861,000	\$	861,000	76920
Expenses					76921
325 320-634 Protective Services	\$	100,000	\$	100,000	76922
TOTAL FED Federal Special Revenue					76923
Fund Group	\$	13,453,892	\$	13,453,892	76924
State Special Revenue Fund Group					76925
5S2 590-622 Medicaid	\$	2,969,552	\$	2,969,552	76926
Administration &					
Oversight					
TOTAL SSR State Special Revenue					76927
Fund Group	\$	2,969,552	\$	2,969,552	76928
TOTAL ALL GENERAL ADMINISTRATION					76929
AND STATEWIDE SERVICES					76930
BUDGET FUND GROUPS	\$	53,844,955	\$	51,396,402	76931
LEASE-RENTAL PAYMENTS					76932
The foregoing appropriation item 320-415, Lease-Rental					76933
Payments, shall be used to meet all payments at the times they are					76934
required to be made during the period from July 1, 2003, to June					76935
30, 2005, by the Department of Mental Retardation and					76936
Developmental Disabilities pursuant to leases and agreements made					76937
under section 154.20 of the Revised Code, but limited to the					76938
aggregate amount of \$49,142,400. Nothing in this act shall be					76939
deemed to contravene the obligation of the state to pay, without					76940
necessity for further appropriation, from the sources pledged					76941
thereto, the bond service charges on obligations issued pursuant					76942

to section 154.20 of the Revised Code.				76943	
<b>Section 70.02. COMMUNITY SERVICES</b>				76944	
General Revenue Fund				76945	
GRF 322-405 State Use Program	\$	268,792	\$	273,510	76946
GRF 322-413 Residential and Support Services	\$	8,439,337	\$	8,450,787	76947
GRF 322-416 Waiver State Match	\$	95,695,198	\$	100,019,747	76948
GRF 322-417 Supported Living	\$	43,179,715	\$	43,179,715	76949
GRF 322-451 Family Support Services	\$	6,975,870	\$	6,975,870	76950
GRF 322-452 Service and Support Administration	\$	8,849,724	\$	8,849,724	76951
GRF 322-501 County Boards Subsidies	\$	31,795,691	\$	31,795,691	76952
GRF 322-503 Tax Equity	\$	14,000,000	\$	15,000,000	76953
TOTAL GRF General Revenue Fund	\$	209,204,327	\$	214,545,044	76954
General Services Fund Group				76955	
4J6 322-645 Intersystem Services for Children	\$	3,300,000	\$	3,300,000	76956
4U4 322-606 Community MR and DD Trust	\$	300,000	\$	300,000	76957
4V1 322-611 Program Support	\$	610,000	\$	625,000	76958
488 322-603 Residential Services Refund	\$	1,000,000	\$	1,000,000	76959
TOTAL GSF General Services Fund Group	\$	5,210,000	\$	5,225,000	76960
Federal Special Revenue Fund Group				76962	
3A4 322-605 Community Program Support	\$	1,000,000	\$	1,000,000	76963
3A4 322-610 Community Residential Support	\$	500,000	\$	500,000	76964

3A5	322-613	DD Council Grants	\$	3,130,000	\$	3,130,000	76965
3G6	322-639	Medicaid Waiver	\$	344,068,714	\$	373,772,814	76966
3M7	322-650	CAFS Medicaid	\$	254,739,737	\$	267,668,087	76967
325	322-608	Federal Grants -	\$	2,023,587	\$	1,833,815	76968
		Operating Expenses					76969
325	322-612	Social Service Block	\$	10,319,346	\$	10,330,830	76970
		Grant					76971
325	322-617	Education Grants -	\$	75,500	\$	75,500	76972
		Operating					76973
TOTAL FED Federal Special Revenue							76974
Fund Group			\$	615,856,884	\$	658,311,046	76975
State Special Revenue Fund Group							76976
4K8	322-604	Waiver - Match	\$	12,000,000	\$	12,000,000	76977
5H0	322-619	Medicaid Repayment	\$	25,000	\$	25,000	76978
TOTAL SSR State Special Revenue							76979
Fund Group			\$	12,025,000	\$	12,025,000	76980
TOTAL ALL COMMUNITY SERVICES							76981
BUDGET FUND GROUPS			\$	842,296,211	\$	890,106,090	76982
RESIDENTIAL AND SUPPORT SERVICES							76983
The Department of Mental Retardation and Developmental							76984
Disabilities may designate a portion of appropriation item							76985
322-413, Residential and Support Services, for the following:							76986
(A) Sermak Class Services used to implement the requirements							76987
of the agreement settling the consent decree in <i>Sermak v. Manuel</i> ,							76988
Case No. c-2-80-220, United States District Court for the Southern							76989
District of Ohio, Eastern Division;							76990
(B) Medicaid-reimbursed programs other than home and							76991
community-based waiver services, in an amount not to exceed							76992
\$1,000,000 in each fiscal year, that enable persons with mental							76993
retardation and developmental disabilities to live in the							76994
community.							76995

WAIVER STATE MATCH	76996
The purposes for which the foregoing appropriation item	76997
322-416, Waiver State Match, shall be used include the following:	76998
(A) Home and community-based waiver services pursuant to	76999
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42	77000
U.S.C. 301, as amended.	77001
(B) Services contracted by county boards of mental	77002
retardation and developmental disabilities.	77003
(C) To pay the nonfederal share of the cost of one or more	77004
new intermediate care facility for the mentally retarded certified	77005
beds in a county where the county board of mental retardation and	77006
developmental disabilities does not initiate or support the	77007
development or certification of such beds, if the director of	77008
mental retardation and developmental disabilities is required by	77009
this act to transfer to the director of job and family services	77010
funds to pay such nonfederal share.	77011
The Department of Mental Retardation and Developmental	77012
Disabilities may designate a portion of appropriation item	77013
322-416, Waiver State Match, to county boards of mental	77014
retardation and developmental disabilities that have greater need	77015
for various residential and support services due to a low	77016
percentage of residential and support services development in	77017
comparison to the number of individuals with mental retardation or	77018
developmental disabilities in the county.	77019
Of the foregoing appropriation item 322-416, Waiver State	77020
Match, \$9,850,000 in each year of the biennium shall be	77021
distributed by the Department to county boards of mental	77022
retardation and developmental disabilities to support existing	77023
residential facilities waiver and individual options waiver	77024
related to Medicaid activities provided for in the component of a	77025
county board's plan developed under division (A)(2) of section	77026

5126.054 of the Revised Code and approved under section 5123.046 77027  
of the Revised Code. Up to \$3,000,000 of these funds in each 77028  
fiscal year may be used to implement day-to-day program management 77029  
services under division (A)(2) of section 5126.054 of the Revised 77030  
Code. Up to \$4,200,000 in each fiscal year may be used to 77031  
implement the program and health and welfare requirements of 77032  
division (A)(2) of section 5126.054 of the Revised Code. 77033

In fiscal years 2004 and 2005 not less than \$2,650,000 of 77034  
these funds shall be used to recruit and retain, under division 77035  
(A)(2) of section 5126.054 of the Revised Code, the direct care 77036  
staff necessary to implement the services included in an 77037  
individualized service plan in a manner that ensures the health 77038  
and welfare of the individuals being served. 77039

The methodology utilized by the department to determine each 77040  
residential facilities waiver and individual options provider's 77041  
allocation of such funds in fiscal year 2003 shall be used for 77042  
allocation purposes to such providers in fiscal years 2004 and 77043  
2005, respectively. 77044

SUPPORTED LIVING 77045

The purposes for which the foregoing appropriation item 77046  
322-417, Supported Living, shall be used include supported living 77047  
services contracted by county boards of mental retardation and 77048  
developmental disabilities in accordance with sections 5126.40 to 77049  
5126.47 of the Revised Code and to pay the nonfederal share of the 77050  
cost of one or more new intermediate care facility for the 77051  
mentally retarded certified beds in a county where the county 77052  
board of mental retardation and developmental disabilities does 77053  
not initiate or support the development or certification of such 77054  
beds, if the director of mental retardation and developmental 77055  
disabilities is required by this act to transfer to the director 77056  
of job and family services funds to pay such nonfederal share. 77057

OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS 77058

Notwithstanding Chapters 5123. and 5126. of the Revised Code, 77059  
the Department of Mental Retardation and Developmental 77060  
Disabilities may develop residential and support service programs 77061  
funded by appropriation item 322-413, Residential and Support 77062  
Services, appropriation item 322-416, Waiver State Match, or 77063  
appropriation item 322-417, Supported Living, that enable persons 77064  
with mental retardation and developmental disabilities to live in 77065  
the community. Notwithstanding Chapter 5121. and section 5123.122 77066  
of the Revised Code, the department may waive the support 77067  
collection requirements of those statutes for persons in community 77068  
programs developed by the department under this section. The 77069  
department shall adopt rules under Chapter 119. of the Revised 77070  
Code or may use existing rules for the implementation of these 77071  
programs. 77072

FAMILY SUPPORT SERVICES 77073

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 77074  
5126.11 of the Revised Code, the Department of Mental Retardation 77075  
and Developmental Disabilities may implement programs funded by 77076  
appropriation item 322-451, Family Support Services, to provide 77077  
assistance to persons with mental retardation or developmental 77078  
disabilities and their families who are living in the community. 77079  
The department shall adopt rules to implement these programs. The 77080  
department may also use the foregoing appropriation item 322-451, 77081  
Family Support Services, to pay the nonfederal share of the cost 77082  
of one or more new intermediate care facility for the mentally 77083  
retarded certified beds in a county where the county board of 77084  
mental retardation and developmental disabilities initiates or 77085  
supports the development or certification of such beds, if the 77086  
director of mental retardation and developmental disabilities is 77087  
required by this act to transfer to the director of job and family 77088  
services funds to pay such nonfederal share. 77089

SERVICE AND SUPPORT ADMINISTRATION 77090

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

Notwithstanding division (C) of section 5126.15 of the Revised Code and subject to funding in appropriation item 322-452, Service and Support Administration, no county may receive less than its allocation in fiscal year 1995. Wherever case management services are referred to in any law, contract, or other document, the reference shall be deemed to refer to service and support administration. No action or proceeding pending on the effective date of this section is affected by the renaming of case management services as service and support administration.

The Department of Mental Retardation and Developmental Disabilities shall adopt, amend, and rescind rules as necessary to reflect the renaming of case management services as service and support administration. All boards of mental retardation and developmental disabilities and the entities with which they contract for services shall rename the titles of their employees who provide service and support administration. All boards and contracting entities shall make corresponding changes to all



employment contracts. 77122

The department may also use the foregoing appropriation item 77123  
322-452, Service and Support Administration, to pay the nonfederal 77124  
share of the cost of one or more new intermediate care facility 77125  
for the mentally retarded certified beds in a county where the 77126  
county board of mental retardation and developmental disabilities 77127  
initiates or supports the development or certification of such 77128  
beds, if the director of mental retardation and developmental 77129  
disabilities is required by this act to transfer to the director 77130  
of job and family services funds to pay such nonfederal share. 77131

STATE SUBSIDIES TO MR/DD BOARDS 77132

The foregoing appropriation item 322-501, County Boards 77133  
Subsidies, shall be distributed to county boards of mental 77134  
retardation and developmental disabilities pursuant to section 77135  
5126.12 of the Revised Code to the limit of the lesser of the 77136  
amount required by that section or the appropriation in 77137  
appropriation item 322-501 prorated to all county boards of mental 77138  
retardation and developmental disabilities. 77139

The department may also use the foregoing appropriation item 77140  
322-501, County Board Subsidies, to pay the nonfederal share of 77141  
the cost of one or more new intermediate care facility for the 77142  
mentally retarded certified beds in a county where the county 77143  
board of mental retardation and developmental disabilities 77144  
initiates or supports the development or certification of such 77145  
beds, if the director of mental retardation and developmental 77146  
disabilities is required by this act to transfer to the director 77147  
of job and family services funds to pay such nonfederal share. 77148

TAX EQUITY 77149

The foregoing appropriation item 322-503, Tax Equity, shall 77150  
be used to fund the tax equalization program created under section 77151  
5126.18 of the Revised Code for county boards of mental 77152

retardation and developmental disabilities.	77153
INTERSYSTEM SERVICES FOR CHILDREN	77154
The foregoing appropriation item 322-645, Intersystem	77155
Services for Children, shall be used to support direct grants to	77156
county family and children first councils created under section	77157
121.37 of the Revised Code. The funds shall be used as partial	77158
support payment and reimbursement for locally coordinated	77159
treatment plans for multi-needs children that come to the	77160
attention of the Family and Children First Cabinet Council	77161
pursuant to section 121.37 of the Revised Code. The Department of	77162
Mental Retardation and Developmental Disabilities may use up to	77163
five per cent of this amount for administrative expenses	77164
associated with the distribution of funds to the county councils.	77165
WAIVER - MATCH	77166
The foregoing appropriation item 322-604, Waiver-Match (Fund	77167
4K8), shall be used as state matching funds for the home and	77168
community-based waivers.	77169
<b>Section 70.03.</b> DEVELOPMENTAL CENTER PROGRAM TO DEVELOP A	77170
MODEL BILLING FOR SERVICES RENDERED	77171
Developmental centers of the Department of Mental Retardation	77172
and Developmental Disabilities may provide services to persons	77173
with mental retardation or developmental disabilities living in	77174
the community or to providers of services to these persons. The	77175
department may develop a methodology for recovery of all costs	77176
associated with the provisions of these services.	77177
<b>Section 70.04.</b> TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER	77178
PHARMACY PROGRAMS	77179
Beginning July 1, 2003, the Department of Mental Retardation	77180
and Developmental Disabilities shall pay the Department of Job and	77181

Family Services quarterly, through intrastate transfer voucher, 77182  
 the nonfederal share of Medicaid prescription drug claim costs for 77183  
 all developmental centers paid by the Department of Job and Family 77184  
 Services. 77185

**Section 70.05. RESIDENTIAL FACILITIES** 77186

General Revenue Fund 77187

GRF 323-321 Residential Facilities \$ 103,402,750 \$ 104,634,635 77188

Operations 77189

TOTAL GRF General Revenue Fund \$ 103,402,750 \$ 104,634,635 77190

General Services Fund Group 77191

152 323-609 Residential Facilities \$ 912,177 \$ 912,177 77192

Support 77193

TOTAL GSF General Services 77194

Fund Group \$ 912,177 \$ 912,177 77195

Federal Special Revenue Fund Group 77196

3A4 323-605 Residential Facilities \$ 128,736,729 \$ 128,831,708 77197

Reimbursement 77198

325 323-608 Federal Grants - \$ 571,381 \$ 582,809 77199

Subsidies 77200

325 323-617 Education Grants - \$ 425,000 \$ 425,000 77201

Residential Facilities 77202

TOTAL FED Federal Special Revenue 77203

Fund Group \$ 129,733,110 \$ 129,839,517 77204

State Special Revenue Fund Group 77205

489 323-632 Operating Expense \$ 12,125,628 \$ 12,125,628 77206

TOTAL SSR State Special Revenue 77207

Fund Group \$ 12,125,628 \$ 12,125,628 77208

TOTAL ALL RESIDENTIAL FACILITIES 77209

BUDGET FUND GROUPS \$ 246,173,665 \$ 247,511,957 77210

DEPARTMENT TOTAL 77211

GENERAL REVENUE FUND \$ 349,628,588 \$ 353,752,637 77212

DEPARTMENT TOTAL				77213	
GENERAL SERVICES FUND GROUP	\$	6,522,177	\$	6,537,177	77214
DEPARTMENT TOTAL				77215	
FEDERAL SPECIAL REVENUE FUND GROUP	\$	759,043,886	\$	801,604,455	77216
DEPARTMENT TOTAL				77217	
STATE SPECIAL REVENUE FUND GROUP	\$	27,120,180	\$	27,120,180	77218
TOTAL DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES		\$ 1,142,314,831	\$	1,189,014,449	77219 77220 77221
(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:				77222 77223 77224 77225	
(1) One representative of the Governor appointed by the Governor;				77226 77227	
(2) Two representatives of the Department of Mental Retardation and Developmental Disabilities appointed by the Director of Mental Retardation and Developmental Disabilities;				77228 77229 77230	
(3) Two representatives of the Department of Job and Family Services appointed by the Director of Job and Family Services;				77231 77232	
(4) One representative of the Office of Budget and Management appointed by the Director of Budget and Management;				77233 77234	
(5) One representative of The Arc of Ohio appointed by the organization's board of trustees;				77235 77236	
(6) One representative of the Ohio Association of County Boards of Mental Retardation and Developmental Disabilities appointed by the association's board of trustees;				77237 77238 77239	
(7) One representative of the Ohio Superintendents of County Boards of Mental Retardation and Developmental Disabilities appointed by the organization's board of trustees;				77240 77241 77242	

(8) One representative of the Ohio Provider Resource Association appointed by the association's board of trustees;	77243 77244
(9) One representative of the Ohio Health Care Association appointed by the association's board of trustees;	77245 77246
(10) One representative of individuals with mental retardation or other developmental disability appointed by the Director of Mental Retardation and Developmental Disabilities.	77247 77248 77249
(B) The Governor shall appoint the chairperson of the committee. Members of the committee shall serve without compensation or reimbursement, except to the extent that serving on the committee is considered a part of their regular employment duties.	77250 77251 77252 77253 77254
(C) The committee shall meet at times determined by the chairperson to do all of the following:	77255 77256
(1) Review the effect that the provisions of this act regarding Medicaid funding for services to individuals with mental retardation or other developmental disability have on the funding and provision of services to such individuals;	77257 77258 77259 77260
(2) Identify issues related to, and barriers to, the effective implementation of those provisions of this act with the goal of meeting the needs of individuals with mental retardation or other developmental disability;	77261 77262 77263 77264
(3) Establish effective means for resolving the issues and barriers, including advocating changes to state law, rules, or both.	77265 77266 77267
(D) The committee shall submit a final report to the Governor and Directors of Mental Retardation and Developmental Disabilities and Job and Family Services and shall cease to exist on submission of the final report unless the Governor issues an executive order providing for the committee to continue.	77268 77269 77270 77271 77272

<b>Section 71. MIH COMMISSION ON MINORITY HEALTH</b>				77273
General Revenue Fund				77274
GRF 149-321 Operating Expenses	\$	539,318	\$ 539,318	77275
GRF 149-501 Minority Health Grants	\$	751,478	\$ 751,478	77276
GRF 149-502 Lupus Program	\$	141,556	\$ 141,556	77277
TOTAL GRF General Revenue Fund	\$	1,432,352	\$ 1,432,352	77278
Federal Special Revenue Fund Group				77279
3J9 149-602 Federal Grants	\$	150,000	\$ 150,000	77280
TOTAL FED Federal Special Revenue				77281
Fund Group	\$	150,000	\$ 150,000	77282
State Special Revenue Fund Group				77283
4C2 149-601 Minority Health	\$	150,000	\$ 150,000	77284
Conference				
TOTAL SSR State Special Revenue				77285
Fund Group	\$	150,000	\$ 150,000	77286
TOTAL ALL BUDGET FUND GROUPS	\$	1,732,352	\$ 1,732,352	77287
LUPUS PROGRAM				77288
The foregoing appropriation item 149-502, Lupus Program,				77289
shall be used to provide grants for programs in patient, public,				77290
and professional education on the subject of systemic lupus				77291
erythematosus; to encourage and develop local centers on lupus				77292
information gathering and screening; and to provide outreach to				77293
minority women.				77294
<b>Section 72. CRB MOTOR VEHICLE COLLISION REPAIR REGISTRATION</b>				77295
BOARD				77296
General Service Fund Group				77297
5H9 865-609 Operating Expenses	\$	285,497	\$ 314,422	77298
TOTAL GSF General Services				77299
Fund Group	\$	285,497	\$ 314,422	77300

TOTAL ALL BUDGET FUND GROUPS	\$	285,497	\$	314,422	77301	
<b>Section 73. DNR DEPARTMENT OF NATURAL RESOURCES</b>					77303	
General Revenue Fund					77304	
GRF 725-404	Fountain Square Rental	\$	1,093,300	\$	1,094,800	77305
Payments - OBA						
GRF 725-407	Conservation Reserve	\$	1,218,750	\$	1,218,750	77306
Enhancement Program						
GRF 725-412	Reclamation Commission	\$	57,934	\$	57,934	77307
GRF 725-413	OPFC Lease Rental	\$	15,066,500	\$	17,709,500	77308
Payments						
GRF 725-423	Stream and Ground	\$	331,819	\$	331,819	77309
Water Gauging						
GRF 725-425	Wildlife License	\$	816,319	\$	976,319	77310
Reimbursement						
GRF 725-456	Canal Lands	\$	332,859	\$	332,859	77311
GRF 725-502	Soil and Water	\$	11,182,024	\$	11,475,507	77312
Districts						
GRF 725-903	Natural Resources	\$	23,808,300	\$	26,914,300	77313
General Obligation						
Debt Service						
GRF 727-321	Division of Forestry	\$	9,068,735	\$	9,068,735	77314
GRF 728-321	Division of Geological	\$	1,731,456	\$	1,731,456	77315
Survey						
GRF 729-321	Office of Information	\$	440,895	\$	440,895	77316
Technology						
GRF 730-321	Division of Parks and	\$	34,232,205	\$	37,061,493	77317
Recreation						
GRF 731-321	Office of Coastal	\$	248,679	\$	259,707	77318
Management						
GRF 733-321	Division of Water	\$	3,355,830	\$	3,237,619	77319
GRF 736-321	Division of	\$	3,410,852	\$	3,436,918	77320
Engineering						

GRF 737-321	Division of Soil and Water	\$	4,215,288	\$	4,234,788	77321
GRF 738-321	Division of Real Estate and Land Management	\$	2,322,031	\$	2,331,781	77322
GRF 741-321	Division of Natural Areas and Preserves	\$	3,104,405	\$	3,104,405	77323
GRF 744-321	Division of Mineral Resources Management	\$	3,439,744	\$	3,495,967	77324
TOTAL GRF	General Revenue Fund	\$	119,477,925	\$	128,515,552	77325
	General Services Fund Group					77326
155 725-601	Departmental Projects	\$	2,645,479	\$	2,831,337	77327
157 725-651	Central Support Indirect	\$	8,272,102	\$	8,423,094	77328
161 725-635	Parks Facilities Maintenance	\$	2,063,124	\$	2,576,240	77329
204 725-687	Information Services	\$	3,384,275	\$	3,476,627	77330
206 725-689	REALM Support Services	\$	475,000	\$	475,000	77331
207 725-690	Real Estate Services	\$	54,000	\$	54,000	77332
223 725-665	Law Enforcement Administration	\$	969,825	\$	976,225	77333
4D5 725-618	Recycled Materials	\$	50,000	\$	50,000	77334
4S9 725-622	NatureWorks Personnel	\$	908,516	\$	983,103	77335
4X8 725-662	Water Resources Council	\$	282,524	\$	282,524	77336
430 725-671	Canal Lands	\$	1,119,834	\$	1,059,056	77337
508 725-684	Natural Resources Publications	\$	209,364	\$	215,626	77338
510 725-631	Maintenance - state-owned residences	\$	255,905	\$	260,849	77339
516 725-620	Water Management	\$	3,663,849	\$	2,342,814	77340
635 725-664	Fountain Square Facilities Management	\$	3,104,199	\$	3,104,199	77341



**Sub. H. B. No. 95**  
**As Pending in the Senate Finance and Financial Institutions Committee**

697	725-670	Submerged Lands	\$	507,099	\$	542,011	77342
TOTAL GSF General Services							77343
Fund Group			\$	27,965,095	\$	27,652,705	77344
Federal Special Revenue Fund Group							77345
3B3	725-640	Federal Forest	\$	140,000	\$	150,000	77346
Pass-Thru							
3B4	725-641	Federal Flood	\$	280,000	\$	285,000	77347
Pass-Thru							
3B5	725-645	Federal Abandoned Mine	\$	11,922,845	\$	11,843,866	77348
Lands							
3B6	725-653	Federal Land and Water	\$	4,900,000	\$	5,000,000	77349
Conservation Grants							
3B7	725-654	Reclamation -	\$	2,179,870	\$	2,168,413	77350
Regulatory							
3P0	725-630	Natural Areas and	\$	718,876	\$	552,480	77351
Preserves - Federal							
3P1	725-632	Geological Survey -	\$	470,780	\$	479,653	77352
Federal							
3P2	725-642	Oil and Gas-Federal	\$	224,537	\$	232,964	77353
3P3	725-650	Coastal Management -	\$	2,357,000	\$	2,357,000	77354
Federal							
3P4	725-660	Water - Federal	\$	300,000	\$	242,000	77355
3R5	725-673	Acid Mine Drainage	\$	792,028	\$	837,223	77356
Abatement/Treatment							
3Z5	725-657	REALM-Federal	\$	1,578,871	\$	1,578,871	77357
328	725-603	Forestry Federal	\$	1,530,561	\$	1,484,531	77358
332	725-669	Federal Mine Safety	\$	247,364	\$	258,103	77359
Grant							
TOTAL FED Federal Special Revenue							77360
Fund Group			\$	27,642,732	\$	27,470,104	77361
State Special Revenue Fund Group							77362
4J2	725-628	Injection Well Review	\$	98,468	\$	81,188	77363

4M7	725-631	Wildfire Suppression	\$	100,000	\$	100,000	77364
4U6	725-668	Scenic Rivers	\$	561,000	\$	617,100	77365
		Protection					
5B3	725-674	Mining Regulation	\$	35,000	\$	35,000	77366
5K1	725-626	Urban Forestry Grant	\$	400,000	\$	400,000	77367
5P2	725-634	Wildlife Boater Angler	\$	1,500,000	\$	1,500,000	77368
		Administration					
509	725-602	State Forest	\$	982,970	\$	1,127,117	77369
511	725-646	Ohio Geologic Mapping	\$	983,274	\$	985,940	77370
512	725-605	State Parks Operations	\$	29,915,146	\$	29,915,146	77371
514	725-606	Lake Erie Shoreline	\$	1,027,093	\$	936,254	77372
518	725-643	Oil and Gas Permit	\$	2,205,651	\$	2,399,580	77373
		Fees					
518	725-677	Oil and Gas Well	\$	1,000,000	\$	1,000,000	77374
		Plugging					
521	725-627	Off-Road Vehicle	\$	118,490	\$	123,490	77375
		Trails					
522	725-656	Natural Areas Checkoff	\$	2,046,737	\$	1,550,670	77376
		Funds					
526	725-610	Strip Mining	\$	1,449,459	\$	1,449,459	77377
		Administration Fees					
527	725-637	Surface Mining	\$	2,793,938	\$	2,693,938	77378
		Administration					
529	725-639	Unreclaimed Land Fund	\$	1,841,589	\$	1,971,037	77379
531	725-648	Reclamation Forfeiture	\$	2,393,762	\$	2,374,087	77380
532	725-644	Litter Control and	\$	12,544,686	\$	12,544,686	77381
		Recycling					
586	725-633	Scrap Tire Program	\$	1,000,000	\$	1,000,000	77382
615	725-661	Dam Safety	\$	286,045	\$	408,223	77383
TOTAL SSR State Special Revenue							77384
Fund Group			\$	63,283,308	\$	63,212,915	77385
Clean Ohio Fund Group							77386
061	725-405	Clean Ohio Operating	\$	155,000	\$	155,000	77387

TOTAL CLR Clean Ohio Fund Group	\$	155,000	\$	155,000	77388
Wildlife Fund Group					77389
015 740-401 Division of Wildlife Conservation	\$	46,427,945	\$	46,814,691	77390
815 725-636 Cooperative Management Projects	\$	120,449	\$	120,449	77391
816 725-649 Wetlands Habitat	\$	966,885	\$	966,885	77392
817 725-655 Wildlife Conservation Checkoff Fund	\$	5,000,000	\$	5,000,000	77393
818 725-629 Cooperative Fisheries Research	\$	988,582	\$	988,582	77394
819 725-685 Ohio River Management	\$	128,584	\$	128,584	77395
TOTAL WLF Wildlife Fund Group	\$	53,632,445	\$	54,019,191	77396
Waterways Safety Fund Group					77397
086 725-414 Waterways Improvement	\$	3,813,051	\$	4,140,186	77398
086 725-418 Buoy Placement	\$	42,182	\$	42,182	77399
086 725-501 Waterway Safety Grants	\$	137,867	\$	137,867	77400
086 725-506 Watercraft Marine Patrol	\$	576,153	\$	576,153	77401
086 725-513 Watercraft Educational Grants	\$	366,643	\$	366,643	77402
086 739-401 Division of Watercraft	\$	19,420,712	\$	18,718,847	77403
TOTAL WSF Waterways Safety Fund Group	\$	24,356,608	\$	23,981,878	77405
Holding Account Redistribution Fund Group					77406
R17 725-659 Performance Cash Bond Refunds	\$	226,500	\$	226,500	77407
R43 725-624 Forestry	\$	800,000	\$	800,000	77408
TOTAL 090 Holding Account Redistribution Fund Group	\$	1,026,500	\$	1,026,500	77410
Accrued Leave Liability Fund Group					77411
4M8 725-675 FOP Contract	\$	20,844	\$	20,844	77412

TOTAL ALF Accrued Leave				77413	
Liability Fund Group	\$	20,844	\$	20,844	77414
TOTAL ALL BUDGET FUND GROUPS	\$	317,560,457	\$	326,054,689	77415

**Section 73.01. FOUNTAIN SQUARE** 77417

The foregoing appropriation item 725-404, Fountain Square 77418  
Rental Payments - OBA, shall be used by the Department of Natural 77419  
Resources to meet all payments required to be made to the Ohio 77420  
Building Authority during the period from July 1, 2003, to June 77421  
30, 2005, pursuant to leases and agreements with the Ohio Building 77422  
Authority under section 152.241 of the Revised Code, but limited 77423  
to the aggregate amount of \$2,188,100. 77424

The Director of Natural Resources, using intrastate transfer 77425  
vouchers, shall make payments to the General Revenue Fund from 77426  
funds other than the General Revenue Fund to reimburse the General 77427  
Revenue Fund for the other funds' shares of the lease rental 77428  
payments to the Ohio Building Authority. The transfers from the 77429  
non-General Revenue funds shall be made within 10 days of the 77430  
payment to the Ohio Building Authority for the actual amounts 77431  
necessary to fulfill the leases and agreements pursuant to section 77432  
152.241 of the Revised Code. 77433

The foregoing appropriation item 725-664, Fountain Square 77434  
Facilities Management (Fund 635), shall be used for payment of 77435  
repairs, renovation, utilities, property management, and building 77436  
maintenance expenses for the Fountain Square Complex. Cash 77437  
transferred by intrastate transfer vouchers from various 77438  
department funds and rental income received by the Department of 77439  
Natural Resources shall be deposited into the Fountain Square 77440  
Facilities Management Fund (Fund 635). 77441

**LEASE RENTAL PAYMENTS** 77442

The foregoing appropriation item 725-413, OPFC Lease Rental 77443

Payments, shall be used to meet all payments at the times they are 77444  
required to be made during the period from July 1, 2003, to June 77445  
30, 2005, by the Department of Natural Resources pursuant to 77446  
leases and agreements made under section 154.22 of the Revised 77447  
Code, but limited to the aggregate amount of \$32,776,000. Nothing 77448  
in this act shall be deemed to contravene the obligation of the 77449  
state to pay, without necessity for further appropriation, from 77450  
the sources pledged thereto, the bond service charges on 77451  
obligations issued pursuant to section 154.22 of the Revised Code. 77452

**NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE** 77453

The foregoing appropriation item 725-903, Natural Resources 77454  
General Obligation Debt Service, shall be used to pay all debt 77455  
service and related financing costs at the times they are required 77456  
to be made pursuant to sections 151.01 and 151.05 of the Revised 77457  
Code during the period from July 1, 2003, to June 30, 2005. The 77458  
Office of the Sinking Fund or the Director of Budget and 77459  
Management shall effectuate the required payments by an intrastate 77460  
transfer voucher. 77461

**Section 73.02. WILDLIFE LICENSE REIMBURSEMENT** 77462

Notwithstanding the limits of the transfer from the General 77463  
Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 77464  
of the Revised Code, up to the amount available in appropriation 77465  
item 725-425, Wildlife License Reimbursement, may be transferred 77466  
from the General Revenue Fund to the Wildlife Fund (Fund 015). 77467  
Pursuant to the certification of the Director of Budget and 77468  
Management of the amount of foregone revenue in accordance with 77469  
section 1533.15 of the Revised Code, the foregoing appropriation 77470  
item in the General Revenue Fund, appropriation item 725-425, 77471  
Wildlife License Reimbursement, shall be used to reimburse the 77472  
Wildlife Fund (Fund 015) for the cost of hunting and fishing 77473  
licenses and permits issued after June 30, 1990, to individuals 77474

who are exempted under the Revised Code from license, permit, and stamp fees. 77475  
77476

CANAL LANDS 77477

The foregoing appropriation item 725-456, Canal Lands, shall 77478  
be used to transfer funds to the Canal Lands Fund (Fund 430) to 77479  
provide operating expenses for the State Canal Lands Program. The 77480  
transfer shall be made using an intrastate transfer voucher and 77481  
shall be subject to the approval of the Director of Budget and 77482  
Management. 77483

SOIL AND WATER DISTRICTS 77484

In addition to state payments to soil and water conservation 77485  
districts authorized by section 1515.10 of the Revised Code, the 77486  
Department of Natural Resources may pay to any soil and water 77487  
conservation district, from authority in appropriation item 77488  
725-502, Soil and Water Districts, an annual amount not to exceed 77489  
\$30,000, upon receipt of a request and justification from the 77490  
district and approval by the Ohio Soil and Water Conservation 77491  
Commission. The county auditor shall credit the payments to the 77492  
special fund established under section 1515.10 of the Revised Code 77493  
for the local soil and water conservation district. Moneys 77494  
received by each district shall be expended for the purposes of 77495  
the district. 77496

Of the foregoing appropriation item 725-502, Soil and Water 77497  
Districts, \$120,000 shall be earmarked in fiscal year 2004 for the 77498  
Franklin County Soil and Water District. 77499

Of the foregoing appropriation item 725-502, Soil and Water 77500  
Districts, \$175,000 shall be earmarked in fiscal year 2004 for the 77501  
Indian Lake Watershed. 77502

Of the foregoing appropriation item 725-502, Soil and Water 77503  
Districts, \$50,000 shall be earmarked for the Rush Creek Watershed 77504  
in each fiscal year. 77505

Of the foregoing appropriation item 725-502, Soil and Water 77506  
Districts, \$28,000 shall be earmarked for the Conservation Action 77507  
Program in each fiscal year. 77508

Of the foregoing appropriation item 725-502, Soil and Water 77509  
Districts, \$150,000 each fiscal year shall be earmarked for the 77510  
Muskingum Conservancy District. 77511

Of the foregoing appropriation item 725-502, Soil and Water 77512  
Districts, \$120,000 each fiscal year shall be earmarked for the 77513  
relocation of Route 30. 77514

FUND CONSOLIDATION 77515

On July 15, 2003, or as soon thereafter as possible, the 77516  
Director of Budget and Management shall transfer the cash balance 77517  
as certified by the Director of Natural Resources from the Coastal 77518  
Management-Federal Fund (Fund 3P3) to the REALM-Federal Fund (Fund 77519  
3Z5). The Director shall cancel any remaining outstanding 77520  
encumbrances against appropriation item 725-650, Coastal 77521  
Management-Federal, that are associated with the REALM federal 77522  
programs and reestablish them against appropriation item 725-657, 77523  
REALM-Federal. The amounts of any encumbrances canceled and 77524  
reestablished are hereby appropriated. 77525

LAW ENFORCEMENT ADMINISTRATION 77526

On or after July 1, 2003, but not later than July 15, 2003, 77527  
the Director of Budget and Management shall transfer \$969,825 from 77528  
the Central Support Indirect Fund (Fund 157) to the Law 77529  
Enforcement Administration Fund (Fund 223). On or after July 1, 77530  
2004, but not later than July 15, 2004, the Director of Budget and 77531  
Management shall transfer \$976,225 from the Central Support 77532  
Indirect Fund (Fund 157) to the Law Enforcement Administration 77533  
Fund (Fund 223). 77534

OIL AND GAS WELL PLUGGING 77535

The foregoing appropriation item 725-677, Oil and Gas Well Plugging, shall be used exclusively for the purposes of plugging wells and to properly restore the land surface of idle and orphan oil and gas wells pursuant to section 1509.071 of the Revised Code. No funds from the appropriation item shall be used for salaries, maintenance, equipment, or other administrative purposes, except for those costs directly attributed to the plugging of an idle or orphan well. Appropriation authority from this appropriation item shall not be transferred to any other fund or line item.

CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 725-405, Clean Ohio Operating, shall be used by the Department of Natural Resources in administering section 1519.05 of the Revised Code.

DIVISION OF SOIL AND WATER

Of the foregoing appropriation item 737-321, Division of Soil and Water, \$220,000 in each fiscal year shall be earmarked for the Water Quality Laboratory located at Heidelberg College.

WATERCRAFT MARINE PATROL

Of the foregoing appropriation item 739-401, Division of Watercraft, not more than \$200,000 in each fiscal year shall be expended for the purchase of equipment for marine patrols qualifying for funding from the Department of Natural Resources pursuant to section 1547.67 of the Revised Code. Proposals for equipment shall accompany the submission of documentation for receipt of a marine patrol subsidy pursuant to section 1547.67 of the Revised Code and shall be loaned to eligible marine patrols pursuant to a cooperative agreement between the Department of Natural Resources and the eligible marine patrol.

ELIMINATION OF CIVILIAN CONSERVATION CORPS



Upon the closure of the Division of Civilian Conservation, 77566  
the Director of Natural Resources, not later than June 30, 2004, 77567  
shall distribute, allocate, salvage, or transfer all assets, 77568  
equipment, supplies, and cash balances of the Division of Civilian 77569  
Conservation to other operating divisions of the Department of 77570  
Natural Resources as determined by the director. The director 77571  
shall maintain a record of such disposition of all assets. 77572

The director shall maintain balances within the Civilian 77573  
Conservation Corps Fund to pay all outstanding obligations, 77574  
including unemployment and other costs associated with the orderly 77575  
closure of the Division of Civilian Conservation. All amounts 77576  
necessary for the orderly closure are hereby appropriated. 77577

**Section 74. NUR STATE BOARD OF NURSING** 77578

General Services Fund Group 77579  
4K9 884-609 Operating Expenses \$ 5,232,776 \$ 5,257,576 77580  
5P8 884-601 Nursing Special Issues \$ 5,000 \$ 5,000 77581  
TOTAL GSF General Services 77582  
Fund Group \$ 5,237,776 \$ 5,262,576 77583  
TOTAL ALL BUDGET FUND GROUPS \$ 5,237,776 \$ 5,262,576 77584

**NURSING SPECIAL ISSUES** 77585

The foregoing appropriation item 884-601, Nursing Special 77586  
Issues (Fund 5P8), shall be used to pay the costs the Board of 77587  
Nursing incurs in implementing section 4723.062 of the Revised 77588  
Code. 77589

**Section 75. OLA OHIOANA LIBRARY ASSOCIATION** 77590

General Revenue Fund 77591  
GRF 355-501 Library Subsidy \$ 215,036 \$ 215,036 77592  
TOTAL GRF General Revenue Fund \$ 215,036 \$ 215,036 77593  
TOTAL ALL BUDGET FUND GROUPS \$ 215,036 \$ 215,036 77594

<b>Section 76. ODB OHIO OPTICAL DISPENSERS BOARD</b>				77596
General Services Fund Group				77597
4K9 894-609 Operating Expenses	\$	307,096	\$ 312,656	77598
TOTAL GSF General Services				77599
Fund Group	\$	307,096	\$ 312,656	77600
TOTAL ALL BUDGET FUND GROUPS	\$	307,096	\$ 312,656	77601
 <b>Section 77. OPT STATE BOARD OF OPTOMETRY</b>				77603
General Services Fund Group				77604
4K9 885-609 Operating Expenses	\$	306,140	\$ 324,391	77605
TOTAL GSF General Services				77606
Fund Group	\$	306,140	\$ 324,391	77607
TOTAL ALL BUDGET FUND GROUPS	\$	306,140	\$ 324,391	77608
 <b>Section 78. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, AND</b>				77610
PEDORTHICS				77611
General Services Fund Group				77612
4K9 973-609 Operating Expenses	\$	100,206	\$ 102,395	77613
TOTAL GSF General Services				77614
Fund Group	\$	100,206	\$ 102,395	77615
TOTAL ALL BUDGET FUND GROUPS	\$	100,206	\$ 102,395	77616
 <b>Section 80. PBR STATE PERSONNEL BOARD OF REVIEW</b>				77617
General Revenue Fund				77618
GRF 124-321 Operating	\$	1,029,430	\$ 1,077,170	77619
TOTAL GRF General Revenue Fund	\$	1,029,430	\$ 1,077,170	77620
General Services Fund Group				77621
636 124-601 Transcript and Other	\$	25,000	\$ 25,000	77622
TOTAL GSF General Services				77623
Fund Group	\$	25,000	\$ 25,000	77624
TOTAL ALL BUDGET FUND GROUPS	\$	1,054,430	\$ 1,102,170	77625

TRANSCRIPT AND OTHER				77626
The foregoing appropriation item 124-601, Transcript and				77627
Other, may be used to defray the costs of producing an				77628
administrative record.				77629
<b>Section 81. PRX STATE BOARD OF PHARMACY</b>				77630
General Services Fund Group				77631
4A5 887-605 Drug Law Enforcement	\$	72,900	\$ 75,550	77632
4K9 887-609 Operating Expenses	\$	4,733,987	\$ 4,914,594	77633
TOTAL GSF General Services				77634
Fund Group	\$	4,806,887	\$ 4,990,144	77635
TOTAL ALL BUDGET FUND GROUPS	\$	4,806,887	\$ 4,990,144	77636
<b>Section 82. PSY STATE BOARD OF PSYCHOLOGY</b>				77638
General Services Fund Group				77639
4K9 882-609 Operating Expenses	\$	564,544	\$ 561,525	77640
TOTAL GSF General Services				77641
Fund Group	\$	564,544	\$ 561,525	77642
TOTAL ALL BUDGET FUND GROUPS	\$	564,544	\$ 561,525	77643
<b>Section 83. PUB OHIO PUBLIC DEFENDER COMMISSION</b>				77645
General Revenue Fund				77646
GRF 019-321 Public Defender	\$	1,430,057	\$ 1,351,494	77647
Administration				
GRF 019-401 State Legal Defense	\$	5,724,780	\$ 5,693,572	77648
Services				
GRF 019-403 Multi-County: State	\$	917,668	\$ 930,894	77649
Share				
GRF 019-404 Trumbull County -	\$	299,546	\$ 308,450	77650
State Share				
GRF 019-405 Training Account	\$	33,323	\$ 33,323	77651
GRF 019-501 County Reimbursement -	\$	30,567,240	\$ 32,630,070	77652

Non-Capital Cases			
GRF 019-503	County Reimbursement -	\$ 693,000	\$ 726,000 77653
Capital Cases			
TOTAL GRF	General Revenue Fund	\$ 39,665,614	\$ 41,673,803 77654
General Services Fund Group			77655
101 019-602	Inmate Legal	\$ 52,698	\$ 53,086 77656
Assistance			
406 019-603	Training and	\$ 16,000	\$ 16,000 77657
Publications			
407 019-604	County Representation	\$ 255,789	\$ 259,139 77658
408 019-605	Client Payments	\$ 285,533	\$ 285,533 77659
TOTAL GSF	General Services		77660
Fund Group		\$ 610,020	\$ 613,758 77661
Federal Special Revenue Fund Group			77662
3S8 019-608	Federal Representation	\$ 351,428	\$ 355,950 77663
TOTAL FED	Federal Special Revenue		77664
Fund Group		\$ 351,428	\$ 355,950 77665
State Special Revenue Fund Group			77666
4C7 019-601	Multi-County: County	\$ 1,923,780	\$ 1,991,506 77667
Share			
4X7 019-610	Trumbull County -	\$ 624,841	\$ 658,764 77668
County Share			
574 019-606	Legal Services	\$ 14,305,700	\$ 14,305,800 77669
Corporation			
TOTAL SSR	State Special Revenue		77670
Fund Group		\$ 16,854,321	\$ 16,956,070 77671
TOTAL ALL BUDGET FUND GROUPS		\$ 57,481,383	\$ 59,599,581 77672
INDIGENT DEFENSE OFFICE			77673
The foregoing appropriation items 019-404, Trumbull County -			77674
State Share, and 019-610, Trumbull County - County Share, shall be			77675
used to support an indigent defense office for Trumbull County.			77676

MULTI-COUNTY OFFICE				77677	
The foregoing appropriation items 019-403, Multi-County:				77678	
State Share, and 019-601, Multi-County: County Share, shall be				77679	
used to support the Office of the Ohio Public Defender's				77680	
Multi-County Branch Office Program.				77681	
TRAINING ACCOUNT				77682	
The foregoing appropriation item 019-405, Training Account,				77683	
shall be used by the Ohio Public Defender to provide legal				77684	
training programs at no cost for private appointed counsel who				77685	
represent at least one indigent defendant at no cost and for state				77686	
and county public defenders and attorneys who contract with the				77687	
Ohio Public Defender to provide indigent defense services.				77688	
FEDERAL REPRESENTATION				77689	
The foregoing appropriation item 019-608, Federal				77690	
Representation, shall be used to receive reimbursements from the				77691	
federal courts when the Ohio Public Defender provides				77692	
representation in federal court cases and to support				77693	
representation in such cases.				77694	
<b>Section 84. DHS DEPARTMENT OF PUBLIC SAFETY</b>				77695	
General Revenue Fund				77696	
GRF 763-403 Operating Expenses -	\$	4,058,188	\$	4,058,188	77697
EMA					
GRF 763-507 Individual and	\$	48,750	\$	48,750	77698
Households Grants					
GRF 769-321 Food Stamp Trafficking	\$	800,000	\$	800,000	77699
Enforcement Operations					
TOTAL GRF General Revenue Fund	\$	4,906,938	\$	4,906,938	77700
TOTAL ALL BUDGET FUND GROUPS	\$	4,906,938	\$	4,906,938	77701
OHIO TASK FORCE ONE - URBAN SEARCH AND RESCUE UNIT				77702	

Of the foregoing appropriation item 763-403, Operating 77703  
Expenses - EMA, \$200,000 in each fiscal year shall be used to fund 77704  
the Ohio Task Force One - Urban Search and Rescue Unit and other 77705  
urban search and rescue programs around the state to create a 77706  
stronger search and rescue capability statewide. 77707

COUNTY EMERGENCY PREPAREDNESS GRANTS 77708

The foregoing appropriation item 763-501, County Emergency 77709  
Preparedness Grants, shall be used to improve preparedness of 77710  
local emergency management agencies and authorities in accordance 77711  
with Chapter 5502. of the Revised Code. The grants shall be 77712  
distributed to agencies based on the distribution formula 77713  
established for the Federal Emergency Management Agency (FEMA) 77714  
"Emergency Management Performance Grant" (EMPG). Grants made under 77715  
this section are not intended to supplant any federal, state, or 77716  
local funding to an agency or authority. Therefore, neither a 77717  
state agency nor any political subdivision shall take into account 77718  
the receipt of a grant under this section in determining the 77719  
amount of support that a state agency or political subdivision 77720  
provides to an emergency management agency or authority. 77721

INDIVIDUAL AND HOUSEHOLDS GRANTS STATE MATCH 77722

The foregoing appropriation item 763-507, Individual and 77723  
Households Grants, shall be used to fund the state share of costs 77724  
to provide grants to individuals and households in cases of 77725  
disaster. 77726

**Section 85.** PUC PUBLIC UTILITIES COMMISSION OF OHIO 77727

General Services Fund Group 77728

5F6 870-622 Utility and Railroad \$ 30,622,222 \$ 30,622,222 77729

Regulation

5F6 870-624 NARUC/NRRI Subsidy \$ 167,233 \$ 167,233 77730

5F6 870-625 Motor Transportation \$ 5,361,239 \$ 5,361,239 77731

Regulation							
558	870-602	Salvage and Exchange	\$	16,477	\$	4,000	77732
TOTAL GSF General Services							77733
Fund Group			\$	36,167,171	\$	36,154,694	77734
Federal Special Revenue Fund Group							77735
3V3	870-604	Commercial Vehicle	\$	870,000	\$	300,000	77736
Information							
Systems/Networks							
333	870-601	Gas Pipeline Safety	\$	597,957	\$	597,957	77737
350	870-608	Motor Carrier Safety	\$	7,027,712	\$	7,027,712	77738
TOTAL FED Federal Special Revenue							77739
Fund Group			\$	8,495,669	\$	7,925,669	77740
State Special Revenue Fund Group							77741
4A3	870-614	Grade Crossing	\$	1,349,757	\$	1,349,757	77742
Protection							
Devices-State							
4L8	870-617	Pipeline Safety-State	\$	187,621	\$	187,621	77743
4S6	870-618	Hazardous Material	\$	899,325	\$	614,325	77744
Registration							
4S6	870-621	Hazardous Materials	\$	373,346	\$	373,346	77745
Base State							
Registration							
4U8	870-620	Civil Forfeitures	\$	719,986	\$	434,986	77746
559	870-605	Public Utilities	\$	4,000	\$	4,000	77747
Territorial							
Administration							
560	870-607	Special Assessment	\$	100,000	\$	100,000	77748
561	870-606	Power Siting Board	\$	337,210	\$	337,210	77749
638	870-611	Biomass Energy Program	\$	40,000	\$	40,000	77750
661	870-612	Hazardous Materials	\$	900,000	\$	900,000	77751
Transportation							
TOTAL SSR State Special Revenue							77752

Fund Group	\$	4,911,245	\$	4,341,245	77753
Agency Fund Group					77754
4G4 870-616 Base State	\$	6,500,000	\$	6,500,000	77755
Registration Program					
TOTAL AGY Agency Fund Group	\$	6,500,000	\$	6,500,000	77756
TOTAL ALL BUDGET FUND GROUPS	\$	56,074,085	\$	54,921,608	77757
COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS PROJECT					77758
The Commercial Vehicle Information Systems and Networks Fund					77759
is hereby created in the state treasury. The Commercial Vehicle					77760
Information Systems and Networks Fund shall receive funding from					77761
the United States Department of Transportation's Commercial					77762
Vehicle Intelligent Transportation System Infrastructure					77763
Deployment Program and shall be used to deploy the Ohio Commercial					77764
Vehicle Information Systems and Networks Project and to expedite					77765
and improve the safety of motor carrier operations through					77766
electronic exchange of data by means of on-highway electronic					77767
systems.					77768
Notwithstanding section 4905.80 of the Revised Code, up to					77769
\$435,000 in fiscal year 2004 and \$150,000 in fiscal year 2005 of					77770
the foregoing appropriation item 870-618, Hazardous Material					77771
Registration, may be used to pay the state share of the					77772
implementation of the Ohio Commercial Vehicle Information Systems					77773
and Networks Project.					77774
Notwithstanding section 4923.12 of the Revised Code, up to					77775
\$435,000 in fiscal year 2004 and \$150,000 in fiscal year 2005 of					77776
the foregoing appropriation item 870-620, Civil Forfeitures, may					77777
be used to pay the state share of the implementation of the Ohio					77778
Commercial Vehicle Information Systems and Networks Project.					77779
<b>Section 86. PWC PUBLIC WORKS COMMISSION</b>					77780
General Revenue Fund					77781



GRF 150-904	Conservation General	\$	9,743,500	\$	11,235,700	77782
	Obligation Debt					
	Service					
GRF 150-907	State Capital	\$	156,974,400	\$	152,069,700	77783
	Improvements					
	General Obligation					77784
	Debt Service					
TOTAL GRF General Revenue Fund		\$	166,717,900	\$	163,305,400	77785
Clean Ohio Fund Group						77786
056 150-403	Clean Ohio Operating	\$	298,200	\$	304,400	77787
	Expenses					
TOTAL 056 Clean Ohio Fund Group		\$	298,200	\$	304,400	77788
TOTAL ALL BUDGET FUND GROUPS		\$	167,016,100	\$	163,609,800	77789

CONSERVATION GENERAL OBLIGATION DEBT SERVICE 77790

The foregoing appropriation item 150-904, Conservation 77791  
 General Obligation Debt Service, shall be used to pay all debt 77792  
 service and related financing costs at the times they are required 77793  
 to be made pursuant to sections 151.01 and 151.09 of the Revised 77794  
 Code during the period from July 1, 2003, to June 30, 2005. The 77795  
 Office of the Sinking Fund or the Director of Budget and 77796  
 Management shall effectuate the required payments by an intrastate 77797  
 transfer voucher. 77798

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE 77799

The foregoing appropriation item 150-907, State Capital 77800  
 Improvements General Obligation Debt Service, shall be used to pay 77801  
 all debt service and related financing costs at the times they are 77802  
 required to be made pursuant to sections 151.01 and 151.08 of the 77803  
 Revised Code during the period from July 1, 2003, to June 30, 77804  
 2005. The Office of the Sinking Fund or the Director of Budget and 77805  
 Management shall effectuate the required payments by an intrastate 77806  
 transfer voucher. 77807

CLEAN OHIO OPERATING EXPENSES				77808	
The foregoing appropriation item 150-403, Clean Ohio				77809	
Operating Expenses, shall be used by the Ohio Public Works				77810	
Commission in administering sections 164.20 to 164.27 of the				77811	
Revised Code.				77812	
<b>Section 87. RAC STATE RACING COMMISSION</b>				77813	
State Special Revenue Fund Group				77814	
5C4 875-607 Simulcast Horse Racing	\$	19,730,799	\$	19,476,952	77815
Purse					
562 875-601 Thoroughbred Race Fund	\$	4,642,378	\$	4,642,378	77816
563 875-602 Standardbred	\$	2,908,841	\$	3,161,675	77817
Development Fund					
564 875-603 Quarterhorse	\$	1,000	\$	2,000	77818
Development Fund					
565 875-604 Racing Commission	\$	4,485,777	\$	4,759,834	77819
Operating					
TOTAL SSR State Special Revenue				77820	
Fund Group	\$	31,768,795	\$	32,042,839	77821
Holding Account Redistribution Fund Group				77822	
R21 875-605 Bond Reimbursements	\$	212,900	\$	212,900	77823
TOTAL 090 Holding Account				77824	
Redistribution					
Fund Group	\$	212,900	\$	212,900	77825
TOTAL ALL BUDGET FUND GROUPS	\$	31,981,695	\$	32,255,739	77826
<b>Section 88. BOR BOARD OF REGENTS</b>				77828	
General Revenue Fund				77829	
GRF 235-321 Operating Expenses	\$	3,286,284	\$	2,767,219	77830
GRF 235-401 Lease Rental Payments	\$	246,500,700	\$	216,836,400	77831
GRF 235-402 Sea Grants	\$	274,895	\$	274,895	77832
GRF 235-403 Math/Science Teaching	\$	1,757,614	\$	1,757,614	77833

	Improvement					
GRF 235-404	College Readiness	\$	4,152,603	\$	4,401,759	77834
	Initiatives					
GRF 235-406	Articulation and	\$	900,000	\$	900,000	77835
	Transfer					
GRF 235-408	Midwest Higher	\$	82,500	\$	82,500	77836
	Education Compact					
GRF 235-409	Information System	\$	1,185,879	\$	1,154,671	77837
GRF 235-414	State Grants and	\$	1,219,719	\$	1,211,373	77838
	Scholarship					
	Administration					
GRF 235-415	Jobs Challenge	\$	9,348,300	\$	9,348,300	77839
GRF 235-417	Ohio Learning Network	\$	3,413,046	\$	3,327,720	77840
GRF 235-418	Access Challenge	\$	62,068,622	\$	62,068,622	77841
GRF 235-420	Success Challenge	\$	48,113,077	\$	48,113,077	77842
GRF 235-428	Appalachian New	\$	1,279,893	\$	1,247,895	77843
	Economy Partnership					
GRF 235-451	Eminent Scholars	\$	0	\$	1,462,500	77844
GRF 235-454	Research Challenge	\$	18,330,000	\$	18,330,000	77845
GRF 235-455	EnterpriseOhio Network	\$	1,505,262	\$	1,465,650	77846
GRF 235-474	Area Health Education	\$	1,822,226	\$	1,776,670	77847
	Centers Program					
	Support					
GRF 235-477	Access Improvement	\$	1,048,664	\$	1,080,124	77848
	Projects					
GRF 235-501	State Share of	\$	1,572,522,610	\$	1,615,762,698	77849
	Instruction					
GRF 235-502	Student Support	\$	870,675	\$	848,908	77850
	Services					
GRF 235-503	Ohio Instructional	\$	111,966,343	\$	115,325,333	77851
	Grants					
GRF 235-504	War Orphans	\$	4,672,321	\$	4,672,321	77852
	Scholarships					

GRF 235-507	OhioLINK	\$	7,028,392	\$	7,028,392	77853
GRF 235-508	Air Force Institute of Technology	\$	2,196,523	\$	2,153,860	77854
GRF 235-509	Displaced Homemakers	\$	204,865	\$	199,743	77855
GRF 235-510	Ohio Supercomputer Center	\$	4,208,472	\$	4,103,260	77856
GRF 235-511	Cooperative Extension Service	\$	25,644,863	\$	25,644,863	77857
GRF 235-513	Ohio University Voinovich Center	\$	311,977	\$	305,178	77858
GRF 235-514	Central State Supplement	\$	11,039,203	\$	11,039,203	77859
GRF 235-515	Case Western Reserve University School of Medicine	\$	3,403,612	\$	3,312,271	77860
GRF 235-518	Capital Scholarship Programs	\$	245,000	\$	245,000	77861
GRF 235-519	Family Practice	\$	5,581,258	\$	5,441,726	77862
GRF 235-520	Shawnee State Supplement	\$	2,082,289	\$	2,082,289	77863
GRF 235-521	The Ohio State University Glenn Institute	\$	311,977	\$	305,178	77864
GRF 235-524	Police and Fire Protection	\$	209,046	\$	203,819	77865
GRF 235-525	Geriatric Medicine	\$	820,696	\$	800,179	77866
GRF 235-526	Primary Care Residencies	\$	2,755,601	\$	2,686,710	77867
GRF 235-527	Ohio Aerospace Institute	\$	2,033,607	\$	1,982,767	77868
GRF 235-530	Academic Scholarships	\$	7,800,000	\$	7,800,000	77869
GRF 235-531	Student Choice Grants	\$	52,139,646	\$	52,139,646	77870
GRF 235-534	Student Workforce	\$	2,437,500	\$	2,437,500	77871

	Development Grants				
GRF 235-535	Ohio Agricultural Research and Development Center	\$	35,830,188	\$	35,830,188 77872
GRF 235-536	The Ohio State University Clinical Teaching	\$	13,649,011	\$	13,649,011 77873
GRF 235-537	University of Cincinnati Clinical Teaching	\$	11,226,126	\$	11,226,126 77874
GRF 235-538	Medical College of Ohio at Toledo Clinical Teaching	\$	8,750,156	\$	8,750,156 77875
GRF 235-539	Wright State University Clinical Teaching	\$	4,250,997	\$	4,250,997 77876
GRF 235-540	Ohio University Clinical Teaching	\$	4,109,568	\$	4,109,568 77877
GRF 235-541	Northeastern Ohio Universities College of Medicine Clinical Teaching	\$	4,226,686	\$	4,226,686 77878
GRF 235-543	Ohio College of Podiatric Medicine Clinical Subsidy	\$	426,631	\$	426,631 77879
GRF 235-547	School of International Business	\$	1,458,022	\$	1,421,572 77880
GRF 235-549	Part-time Student Instructional Grants	\$	14,036,622	\$	14,457,721 77881
GRF 235-552	Capital Component	\$	18,711,936	\$	18,711,936 77882
GRF 235-553	Dayton Area Graduate Studies Institute	\$	3,224,550	\$	3,143,937 77883
GRF 235-554	Computer Science	\$	2,971,371	\$	2,897,086 77884

	Graduate Education			
GRF 235-555	Library Depositories	\$	1,775,467	\$ 1,731,080 77885
GRF 235-556	Ohio Academic Resources Network	\$	3,657,009	\$ 3,803,289 77886
	Resources Network			
GRF 235-558	Long-term Care	\$	230,906	\$ 225,134 77887
	Research			
GRF 235-561	Bowling Green State University Canadian Studies Center	\$	121,586	\$ 118,546 77888
	University Canadian Studies Center			
GRF 235-572	The Ohio State University Clinic Support	\$	1,758,689	\$ 1,714,723 77889
	University Clinic Support			
GRF 235-583	Urban University Programs	\$	5,899,236	\$ 5,760,506 77890
	Urban University Programs			
GRF 235-585	Ohio University Innovation Center	\$	41,596	\$ 40,556 77891
	Ohio University Innovation Center			
GRF 235-587	Rural University Projects	\$	1,305,510	\$ 1,305,510 77892
	Rural University Projects			
GRF 235-588	Ohio Resource Center for Mathematics, Science, and Reading	\$	853,262	\$ 853,262 77893
	Ohio Resource Center for Mathematics, Science, and Reading			
GRF 235-595	International Center for Water Resources Development	\$	137,352	\$ 133,918 77894
	International Center for Water Resources Development			
GRF 235-596	Hazardous Materials Program	\$	339,647	\$ 331,156 77895
	Hazardous Materials Program			
GRF 235-599	National Guard Scholarship Program	\$	13,252,916	\$ 14,578,208 77896
	National Guard Scholarship Program			
GRF 235-909	Higher Education General Obligation Debt Service	\$	97,668,000	\$ 130,967,600 77897
	Higher Education General Obligation Debt Service			
TOTAL GRF	General Revenue Fund	\$	2,476,688,800	\$ 2,528,792,936 77898
	General Revenue Fund			
	General Services Fund Group 77899			

220	235-614	Program Approval and Reauthorization	\$	400,000	\$	400,000	77900
456	235-603	Sales and Services	\$	300,002	\$	300,003	77901
TOTAL GSF General Services							77902
Fund Group			\$	700,002	\$	700,003	77903
Federal Special Revenue Fund Group							77904
3H2	235-608	Human Services Project	\$	1,500,000	\$	1,500,000	77905
3N6	235-605	State Student Incentive Grants	\$	2,196,680	\$	2,196,680	77906
3T0	235-610	National Health Service Corps - Ohio Loan Repayment	\$	150,001	\$	150,001	77907
312	235-609	Tech Prep	\$	183,850	\$	183,850	77908
312	235-611	Gear-up Grant	\$	1,478,245	\$	1,370,691	77909
312	235-612	Carl D. Perkins Grant/Plan Administration	\$	112,960	\$	112,960	77910
312	235-615	Professional Development	\$	523,129	\$	523,129	77911
312	235-616	Workforce Investment Act Administration	\$	850,000	\$	850,000	77912
312	235-631	Federal Grants	\$	3,444,949	\$	3,150,590	77913
TOTAL FED Federal Special Revenue							77914
Fund Group			\$	10,439,814	\$	10,037,901	77915
State Special Revenue Fund Group							77916
4E8	235-602	Higher Educational Facility Commission Administration	\$	20,000	\$	20,000	77917
4P4	235-604	Physician Loan Repayment	\$	476,870	\$	476,870	77918
649	235-607	The Ohio State University	\$	760,000	\$	760,000	77919

Highway/Transportation

Research

682 235-606 Nursing Loan Program	\$	893,000	\$	893,000	77920
TOTAL SSR State Special Revenue					77921
Fund Group	\$	2,149,870	\$	2,149,870	77922
TOTAL ALL BUDGET FUND GROUPS	\$	2,489,978,486	\$	2,541,680,710	77923

**Section 88.01. OPERATING EXPENSES** 77925

Of the foregoing appropriation item 235-321, Operating 77926  
 Expenses, up to \$500,000 shall be used in fiscal year 2004 to 77927  
 support the activities of the Commission on Higher Education and 77928  
 the Economy. The Commission shall recommend a strategy to improve 77929  
 the quality and efficiency of Ohio's higher education system to 77930  
 increase effectiveness, eliminate unnecessary duplication, broaden 77931  
 the use of technology, and determine how higher education can most 77932  
 effectively support the state's economy, best prepare Ohio 77933  
 students for Third Frontier jobs, and add to the quality of life 77934  
 for Ohio's citizens. The Director of Budget and Management may 77935  
 transfer any unencumbered fiscal year 2004 balance to fiscal year 77936  
 2005 to support the activities of the Commission. 77937

LEASE RENTAL PAYMENTS 77938

The foregoing appropriation item 235-401, Lease Rental 77940  
 Payments, shall be used to meet all payments at the times they are 77941  
 required to be made during the period from July 1, 2003, to June 77942  
 30, 2005, by the Board of Regents pursuant to leases and 77943  
 agreements made under section 154.21 of the Revised Code, but 77944  
 limited to the aggregate amount of \$463,377,100. Nothing in this 77945  
 act shall be deemed to contravene the obligation of the state to 77946  
 pay, without necessity for further appropriation, from the sources 77947  
 pledged thereto, the bond service charges on obligations issued 77948  
 pursuant to section 154.21 of the Revised Code. 77949



SEA GRANTS	77950
The foregoing appropriation item 235-402, Sea Grants, shall	77951
be disbursed to the Ohio State University and shall be used to	77952
conduct research on fish in Lake Erie.	77953
MATHEMATICS AND SCIENCE TEACHING IMPROVEMENT	77954
Appropriation item 235-403, Math/Science Teaching	77955
Improvement, shall be used by the Board of Regents to support	77956
programs such as OSI - Discovery designed to raise the quality of	77957
mathematics and science teaching in primary and secondary	77958
education.	77959
Of the foregoing appropriation item 235-403, Math/Science	77960
Teaching Improvement, \$217,669 in each fiscal year shall be	77961
distributed to the Mathematics and Science Center in Lake County.	77962
Of the foregoing appropriation item 235-403, Math/Science	77963
Teaching Improvement, \$87,068 in fiscal year 2004 and \$87,067 in	77964
fiscal year 2005 shall be distributed to the Ohio Mathematics and	77965
Science Coalition.	77966
COLLEGE READINESS INITIATIVES	77967
Appropriation item 235-404, College Readiness Initiatives,	77968
shall be used by the Board of Regents to support programs designed	77969
to improve the academic preparation and increase the number of	77970
students that enroll and succeed in higher education.	77971
MIDWEST HIGHER EDUCATION COMPACT	77972
The foregoing appropriation item 235-408, Midwest Higher	77973
Education Compact, shall be distributed by the Board of Regents	77974
pursuant to section 3333.40 of the Revised Code.	77975
INFORMATION SYSTEM	77976
The foregoing appropriation item 235-409, Information System,	77977
shall be used by the Board of Regents to operate the higher	77978

education information data system known as the Higher Education Information System. 77979  
77980

**Section 88.02. JOBS CHALLENGE** 77981

Funds appropriated to appropriation item 235-415, Jobs Challenge, shall be distributed to state-assisted community and technical colleges, regional campuses of state-assisted universities, and other organizationally distinct and identifiable member campuses of the EnterpriseOhio Network in support of noncredit job-related training. In each fiscal year, \$2,770,773 shall be distributed as performance grants to EnterpriseOhio Network campuses based upon each campus's documented performance according to criteria established by the Board of Regents for increasing training and related services to businesses, industries, and public sector organizations. 77982  
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Of the foregoing appropriation item 235-415, Jobs Challenge, \$2,819,345 in each fiscal year shall be allocated to the Targeted Industries Training Grant Program to attract, develop, and retain business and industry strategically important to the state's economy. 77993  
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Also, in each fiscal year, \$3,758,182 shall be allocated to the Higher Skills Incentives Program to promote and deliver coordinated, comprehensive training to local employers and to reward EnterpriseOhio Network campuses for increasing the amount of non-credit skill upgrading services provided to Ohio employers and employees. The funds shall be distributed to campuses in proportion to each campus's share of noncredit job-related training revenues received by all campuses for the previous fiscal year. It is the intent of the General Assembly that this Higher Skills Incentives component of the Jobs Challenge Program reward campus noncredit job-related training efforts in the same manner that the Research Challenge Program rewards campuses for their 77998  
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ability to obtain sponsored research revenues. 78010

OHIO LEARNING NETWORK 78011

Appropriation item 235-417, Ohio Learning Network, shall be 78012  
used by the Board of Regents to support the continued 78013  
implementation of the Ohio Learning Network, a statewide 78014  
electronic collaborative effort designed to promote degree 78015  
completion of students, workforce training of employees, and 78016  
professional development through the use of advanced 78017  
telecommunications and distance education initiatives. 78018

ACCESS CHALLENGE 78019

In each fiscal year, the foregoing appropriation item 78020  
235-418, Access Challenge, shall be distributed to Ohio's 78021  
state-assisted access colleges and universities. For the purposes 78022  
of this allocation, "access campuses" includes state-assisted 78023  
community colleges, state community colleges, technical colleges, 78024  
Shawnee State University, Central State University, Cleveland 78025  
State University, the regional campuses of state-assisted 78026  
universities, and, where they are organizationally distinct and 78027  
identifiable, the community-technical colleges located at the 78028  
University of Cincinnati, Youngstown State University, and the 78029  
University of Akron. 78030

The purpose of Access Challenge is to reduce the student 78031  
share of costs for resident undergraduates enrolled in lower 78032  
division undergraduate courses at Ohio's access campuses. The 78033  
long-term goal is to make the student share of costs for these 78034  
students equivalent to the student share of costs for resident 78035  
undergraduate students enrolled throughout Ohio's public colleges 78036  
and universities. Access Challenge appropriations shall be used in 78037  
both years of the biennium to sustain, as much as possible, the 78038  
tuition restraint or tuition reduction that was achieved with 78039  
Access Challenge allocations in prior years. 78040

In fiscal year 2004, Access Challenge subsidies shall be distributed by the Board of Regents to eligible access campuses on the basis of the average of each campus's share of fiscal year 2001 and 2002 all-terms subsidy-eligible General Studies FTEs. In fiscal year 2005, Access Challenge subsidies shall be distributed by the Board of Regents to eligible access campuses on the basis of the average of each campus's share of fiscal year 2002 and 2003 all-terms subsidy-eligible General Studies FTEs.

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

SUCCESS CHALLENGE

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

In each fiscal year, seventy per cent of the appropriations shall be distributed to state-assisted university main campuses in proportion to each campus's share of the total statewide bachelor's degrees granted by university main campuses to "at-risk" students. In fiscal years 2004 and 2005, an "at-risk" student means any undergraduate student who was eligible to receive an Ohio Instructional Grant during the past ten years. An eligible institution shall not receive its share of this

distribution until it has submitted a plan that addresses how the 78072  
subsidy will be used to better serve at-risk students and increase 78073  
their likelihood of successful completion of a bachelor's degree 78074  
program. The Board of Regents shall disseminate to all 78075  
state-supported institutions of higher education all such plans 78076  
submitted by institutions that received Success Challenge funds. 78077

In each fiscal year, thirty per cent of the appropriations 78078  
shall be distributed to university main campuses in proportion to 78079  
each campus's share of the total bachelor's degrees granted by 78080  
university main campuses to undergraduate students who completed 78081  
their bachelor's degrees in a "timely manner" in the previous 78082  
fiscal year. For the purposes of this section, "timely manner" 78083  
means the normal time it would take for a full-time degree-seeking 78084  
undergraduate student to complete the student's degree. Generally, 78085  
for such students pursuing a bachelor's degree, "timely manner" 78086  
means four years. Exceptions to this general rule shall be 78087  
permitted for students enrolled in programs specifically designed 78088  
to be completed in a longer time period. The Board of Regents 78089  
shall collect data to assess the timely completion statistics by 78090  
university main campuses. 78091

APPALACHIAN NEW ECONOMY PARTNERSHIP 78092

The foregoing appropriation item 235-428, Appalachian New 78093  
Economy Partnership, shall be distributed to Ohio University to 78094  
continue a multi-campus and multi-agency coordinated effort to 78095  
link Appalachia to the new economy. Ohio University shall use 78096  
these funds to provide leadership in the development and 78097  
implementation of initiatives in the areas of entrepreneurship, 78098  
management, education, and technology. 78099

EMINENT SCHOLARS 78100

The foregoing appropriation item 235-451, Eminent Scholars, 78101  
shall be used by the Ohio Board of Regents to establish an Ohio 78102

Eminent Scholars Program, the purpose of which is to invest 78103  
educational resources to address problems that are of vital 78104  
statewide significance while fostering the growth in eminence of 78105  
Ohio's academic programs. Ohio Eminent Scholars endowed chairs 78106  
will allow Ohio universities to recruit senior faculty members 78107  
from outside Ohio who are nationally and internationally 78108  
recognized scholars in areas of science and technology that 78109  
provide the basic research platforms on which our technology and 78110  
commercialization efforts are built. Endowment grants of 78111  
approximately \$750,000 to state colleges and universities and 78112  
nonprofit Ohio institutions of higher education holding 78113  
certificates of authorization issued under section 1713.02 of the 78114  
Revised Code to match endowment gifts from nonstate sources may be 78115  
made in accordance with a plan established by the Ohio Board of 78116  
Regents. Matching nonstate gifts in science and technology 78117  
programs shall be \$750,000. The grants shall have as their purpose 78118  
attracting and sustaining in Ohio scholar-leaders of national or 78119  
international prominence; each will assist in accelerating state 78120  
economic growth through research that provides an essential basic 78121  
science platform for commercialization efforts. Such 78122  
scholar-leaders shall, among their duties, share broadly the 78123  
benefits and knowledge unique to their fields of scholarship to 78124  
the betterment of Ohio and its people and collaborate with other 78125  
state technology programs and program recipients. 78126

RESEARCH CHALLENGE 78127

The foregoing appropriation item 235-454, Research Challenge, 78128  
shall be used to enhance the basic research capabilities of public 78129  
colleges and universities and accredited Ohio institutions of 78130  
higher education holding certificates of authorization issued 78131  
pursuant to section 1713.02 of the Revised Code, in order to 78132  
strengthen academic research for pursuing Ohio's economic 78133  
development goals. The Board of Regents, in consultation with the 78134

colleges and universities, shall administer the Research Challenge 78135  
Program and utilize a means of matching, on a fractional basis, 78136  
external funds attracted in the previous year by institutions for 78137  
basic research. The program may include incentives for increasing 78138  
the amount of external research funds coming to eligible 78139  
institutions and for focusing research efforts upon critical state 78140  
needs. Colleges and universities shall submit for review and 78141  
approval to the Board of Regents plans for the institutional 78142  
allocation of state dollars received through the program. The 78143  
institutional plans shall provide the rationale for the allocation 78144  
in terms of the strategic targeting of funds for academic and 78145  
state purposes, for strengthening research programs, for 78146  
increasing the amount of external research funds, and shall 78147  
include an evaluation process to provide results of the increased 78148  
support. Each institutional plan for the investment of Research 78149  
Challenge moneys shall report on existing, planned, and/or 78150  
possible relationships with other State of Ohio science and 78151  
technology programs and funding recipients in order to further 78152  
ongoing statewide science and technology collaboration objectives. 78153  
The Board of Regents shall submit a biennial report of progress to 78154  
the General Assembly. 78155

ENTERPRISEOHIO NETWORK 78156

The foregoing appropriation item 235-455, EnterpriseOhio 78157  
Network, shall be allocated by the Board of Regents to continue 78158  
increasing the capabilities of the EnterpriseOhio Network to meet 78159  
the ongoing training needs of Ohio employers. Funds shall support 78160  
multicampus collaboration, best practice dissemination, and 78161  
capacity building projects. The Regents Advisory Committee for 78162  
Workforce Development, in its advisory role, shall advise in the 78163  
development of plans and activities. 78164

Of the foregoing appropriation item 235-455, EnterpriseOhio 78165  
Network, \$181,101 in fiscal year 2004 and \$176,334 in fiscal year 78166

2005 shall be used by the Dayton Business/Sinclair College Jobs Profiling Program. 78167  
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**Section 88.03. AREA HEALTH EDUCATION CENTERS** 78169

The foregoing appropriation item 235-474, Area Health Education Centers Program Support, shall be used by the Board of Regents to support the medical school regional area health education centers' educational programs for the continued support of medical and other health professions education and for support of the Area Health Education Center Program. 78170  
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Of the foregoing appropriation item 235-474, Area Health Education Centers Program Support, \$174,135 in fiscal year 2004 and \$169,782 in fiscal year 2005 shall be disbursed to the Ohio University College of Osteopathic Medicine to operate a mobile health care unit to serve the southeastern area of the state. Of the foregoing appropriation item 235-474, Area Health Education Centers Program Support, \$130,601 in fiscal year 2004 and \$127,337 in fiscal year 2005 shall be used to support the Ohio Valley Community Health Information Network (OVCHIN) project. 78176  
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**ACCESS IMPROVEMENT PROJECTS** 78185

The foregoing appropriation item 235-477, Access Improvement Projects, shall be used by the Board of Regents to support innovative statewide strategies to increase student access and retention for specialized populations, and to provide for pilot projects that will contribute to improving access to higher education by specialized populations. The funds may be used for projects that improve access for nonpublic secondary students. 78186  
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Of the foregoing appropriation item 235-477, Access Improvement Projects, \$798,684 in fiscal year 2004 and \$822,645 in fiscal year 2005 shall be distributed to the Ohio Appalachian Center for Higher Education at Shawnee State University. The board 78193  
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of directors of the center shall consist of the presidents of 78197  
Shawnee State University, Ohio University, Belmont Technical 78198  
College, Hocking Technical College, Jefferson Community College, 78199  
Muskingum Area Technical College, Rio Grande Community College, 78200  
Southern State Community College, and Washington State Community 78201  
College; the dean of one of the Salem, Tuscarawas, and East 78202  
Liverpool regional campuses of Kent State University, as 78203  
designated by the president of Kent State University; and a 78204  
representative of the Board of Regents designated by the 78205  
Chancellor. 78206

Of the foregoing appropriation item 235-477, Access 78207  
Improvement Projects, \$169,553 in fiscal year 2004 and \$174,640 in 78208  
fiscal year 2005 shall be distributed to Miami University for the 78209  
Student Achievement in Research and Scholarship (STARS) Program. 78210

**Section 88.04. STATE SHARE OF INSTRUCTION** 78211

As soon as practicable during each fiscal year of the 78212  
2003-2005 biennium in accordance with instructions of the Board of 78213  
Regents, each state-assisted institution of higher education shall 78214  
report its actual enrollment to the Board of Regents. 78215

The Board of Regents shall establish procedures required by 78216  
the system of formulas set out below and for the assignment of 78217  
individual institutions to categories described in the formulas. 78218  
The system of formulas establishes the manner in which aggregate 78219  
expenditure requirements shall be determined for each of the three 78220  
components of institutional operations. In addition to other 78221  
adjustments and calculations described below, the subsidy 78222  
entitlement of an institution shall be determined by subtracting 78223  
from the institution's aggregate expenditure requirements income 78224  
to be derived from the local contributions assumed in calculating 78225  
the subsidy entitlements. The local contributions for purposes of 78226  
determining subsidy support shall not limit the authority of the 78227

individual boards of trustees to establish fee levels. 78228

The General Studies and Technical models shall be adjusted by 78229  
the Board of Regents so that the share of state subsidy earned by 78230  
those models is not altered by changes in the overall local share. 78231  
A lower-division fee differential shall be used to maintain the 78232  
relationship that would have occurred between these models and the 78233  
baccalaureate models had an assumed share of 37 per cent been 78234  
funded. 78235

In defining the number of full-time equivalent (FTE) students 78236  
for state subsidy purposes, the Board of Regents shall exclude all 78237  
undergraduate students who are not residents of Ohio, except those 78238  
charged in-state fees in accordance with reciprocity agreements 78239  
made pursuant to section 3333.17 of the Revised Code or employer 78240  
contracts entered into pursuant to section 3333.32 of the Revised 78241  
Code. 78242

(A) AGGREGATE EXPENDITURE PER FULL-TIME EQUIVALENT STUDENT 78243

(1) INSTRUCTION AND SUPPORT SERVICES 78244

MODEL	FY 2004	FY 2005	
General Studies I	\$ 4,947	\$ 4,983	78245
General Studies II	\$ 5,323	\$ 5,336	78246
General Studies III	\$ 6,883	\$ 7,120	78247
Technical I	\$ 5,913	\$ 6,137	78248
Technical III	\$ 9,522	\$ 10,026	78249
Baccalaureate I	\$ 7,623	\$ 7,721	78250
Baccalaureate II	\$ 8,584	\$ 8,864	78251
Baccalaureate III	\$ 12,559	\$ 12,932	78252
Masters and Professional I	\$ 15,867	\$ 18,000	78253
Masters and Professional II	\$ 20,861	\$ 22,141	78254
Masters and Professional III	\$ 27,376	\$ 28,190	78255
Medical I	\$ 30,867	\$ 31,819	78256
Medical II	\$ 41,495	\$ 41,960	78257
MPD I	\$ 14,938	\$ 14,966	78258

(2) STUDENT SERVICES	78260
For this purpose, FTE counts shall be weighted to reflect differences among institutions in the numbers of students enrolled on a part-time basis. The student services subsidy per FTE shall be \$822 in fiscal year 2004 and \$903 in fiscal year 2005 for all models.	78261 78262 78263 78264 78265
(B) PLANT OPERATION AND MAINTENANCE (POM)	78266
(1) DETERMINATION OF THE SQUARE-FOOT-BASED POM SUBSIDY	78267
Space undergoing renovation shall be funded at the rate allowed for storage space.	78268 78269
In the calculation of square footage for each campus, square footage shall be weighted to reflect differences in space utilization.	78270 78271 78272
The space inventories for each campus shall be those determined in the fiscal year 2003 state share of instruction calculation, adjusted for changes attributable to the construction or renovation of facilities for which state appropriations were made or local commitments were made prior to January 1, 1995.	78273 78274 78275 78276 78277
Only 50 per cent of the space permanently taken out of operation in fiscal year 2004 or fiscal year 2005 that is not otherwise replaced by a campus shall be deleted from the plant operation and maintenance space inventory.	78278 78279 78280 78281
The square-foot-based plant operation and maintenance subsidy for each campus shall be determined as follows:	78282 78283
(a) For each standard room type category shown below, the subsidy-eligible net assignable square feet (NASF) for each campus shall be multiplied by the following rates, and the amounts summed for each campus to determine the total gross square-foot-based POM expenditure requirement:	78284 78285 78286 78287 78288
	FY 2004                      FY 2005                      78289

Classrooms	\$5.80	\$6.04	78290
Laboratories	\$7.22	\$7.53	78291
Offices	\$5.80	\$6.04	78292
Audio Visual Data Processing	\$7.22	\$7.53	78293
Storage	\$2.57	\$2.68	78294
Circulation	\$7.31	\$7.62	78295
Other	\$5.80	\$6.04	78296

(b) The total gross square-foot POM expenditure requirement shall be allocated to models in proportion to FTE enrollments as reported in enrollment data for all models except Doctoral I and Doctoral II.

(c) The amounts allocated to models in division (B)(1)(b) of this section shall be multiplied by the ratio of subsidy-eligible FTE students to total FTE students reported in each model, and the amounts summed for all models. To this total amount shall be added an amount to support roads and grounds expenditures to produce the total square-foot-based POM subsidy.

(2) DETERMINATION OF THE ACTIVITY-BASED POM SUBSIDY

(a) The number of subsidy-eligible FTE students in each model shall be multiplied by the following rates for each campus for each fiscal year.

	FY 2004	FY 2005	
General Studies I	\$ 552	\$ 560	78311
General Studies II	\$ 696	\$ 705	78312
General Studies III	\$1,608	\$1,651	78313
Technical I	\$ 777	\$ 806	78314
Technical III	\$1,501	\$1,570	78315
Baccalaureate I	\$ 700	\$ 706	78316
Baccalaureate II	\$1,250	\$1,232	78317
Baccalaureate III	\$1,520	\$1,458	78318
Masters and Professional I	\$1,258	\$1,301	78319
Masters and Professional II	\$2,817	\$2,688	78320

Masters and Professional III	\$3,832	\$3,712	78322
Medical I	\$2,663	\$2,669	78323
Medical II	\$3,837	\$4,110	78324
MPD I	\$1,213	\$1,233	78325

(b) The sum of the products for each campus determined in 78326  
division (B)(2)(a) of this section for all models except Doctoral 78327  
I and Doctoral II for each fiscal year shall be weighted by a 78328  
factor to reflect sponsored research activity and job 78329  
training-related public services expenditures to determine the 78330  
total activity-based POM subsidy. 78331

(C) CALCULATION OF CORE SUBSIDY ENTITLEMENTS AND ADJUSTMENTS 78332

(1) CALCULATION OF CORE SUBSIDY ENTITLEMENTS 78333

The calculation of the core subsidy entitlement shall consist 78334  
of the following components: 78335

(a) For each campus and for each fiscal year, the core 78336  
subsidy entitlement shall be determined by multiplying the amounts 78337  
listed above in divisions (A)(1) and (2) and (B)(2) of this 78338  
section less assumed local contributions, by (i) average 78339  
subsidy-eligible FTEs for the two-year period ending in the prior 78340  
year for all models except Doctoral I and Doctoral II; and (ii) 78341  
average subsidy-eligible FTEs for the five-year period ending in 78342  
the prior year for all models except Doctoral I and Doctoral II. 78343

(b) In calculating the core subsidy entitlements for Medical 78344  
II models only, the Board of Regents shall use the following count 78345  
of FTE students: 78346

(i) For those medical schools whose current year enrollment, 78347  
including students repeating terms, is below the base enrollment, 78348  
the Medical II FTE enrollment shall equal: 65 per cent of the base 78349  
enrollment plus 35 per cent of the current year enrollment 78350  
including students repeating terms, where the base enrollment is: 78351

University of Cincinnati	833	78353
Medical College of Ohio at Toledo	650	78354
Wright State University	433	78355
Ohio University	433	78356
Northeastern Ohio Universities College of Medicine	433	78357

(ii) For those medical schools whose current year enrollment, 78358  
excluding students repeating terms, is equal to or greater than 78359  
the base enrollment, the Medical II FTE enrollment shall equal the 78360  
base enrollment plus the FTE for repeating students. 78361

(iii) Students repeating terms may be no more than five per 78362  
cent of current year enrollment. 78363

(c) The Board of Regents shall compute the sum of the two 78364  
calculations listed in division (C)(1)(a) of this section and use 78365  
the greater sum as the core subsidy entitlement. 78366

The POM subsidy for each campus shall equal the greater of 78367  
the square-foot-based subsidy or the activity-based POM subsidy 78368  
component of the core subsidy entitlement. 78369

(d) The state share of instruction provided for doctoral 78370  
students shall be based on a fixed percentage of the total 78371  
appropriation. In each fiscal year of the biennium not more than 78372  
10.34 per cent of the total state share of instruction shall be 78373  
reserved to implement the recommendations of the Graduate Funding 78374  
Commission. It is the intent of the General Assembly that the 78375  
doctoral reserve not exceed 10.34 per cent of the total state 78376  
share of instruction to implement the recommendations of the 78377  
Graduate Funding Commission. The Board of Regents may reallocate 78378  
up to two per cent in each fiscal year of the reserve among the 78379  
state-assisted universities on the basis of a quality review as 78380  
specified in the recommendations of the Graduate Funding 78381  
Commission. No such reallocation shall occur unless the Board of 78382

Regents, in consultation with representatives of state-assisted universities, determines that sufficient funds are available for this purpose.

The amount so reserved shall be allocated to universities in proportion to their share of the total number of Doctoral I equivalent FTEs as calculated on an institutional basis using the greater of the two-year or five-year FTEs for the period fiscal year 1994 through fiscal year 1998 with annualized FTEs for fiscal years 1994 through 1997 and all-term FTEs for fiscal year 1998 as adjusted to reflect the effects of doctoral review and subsequent changes in Doctoral I equivalent enrollments. For the purposes of this calculation, Doctoral I equivalent FTEs shall equal the sum of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs.

(2) ANNUAL STATE SHARE OF INSTRUCTION FUNDING GUARANTEE

In addition to and after the other adjustment noted above, in fiscal years 2004 and 2005 each campus shall have its state share of instruction adjusted to the extent necessary to meet the following provisions:

(a) If the total state share of instruction appropriation relative to the prior year is 102 per cent or greater, no campus shall receive a state share of instruction allocation that is less than 99 per cent of the prior year's state share of instruction amount;

(b) If the total state share of instruction appropriation relative to the prior year is greater than 95 per cent but less than 102 per cent, no campus shall receive a state share of instruction allocation that is less than three percentage points below the percentage change in the total state share of instruction percentage change;

(c) If the total share of instruction appropriation relative to the prior year is 95 per cent or less, no campus shall receive

a state share of instruction allocation that is less than 2.5 78414  
percentage points below the percentage change in the total state 78415  
share of instruction percentage change. 78416

(3) CAPITAL COMPONENT DEDUCTION 78417

After all other adjustments have been made, state share of 78418  
instruction earnings shall be reduced for each campus by the 78419  
amount, if any, by which debt service charged in Am. H.B. No. 748 78420  
of the 121st General Assembly, Am. Sub. H.B. No. 850 of the 122nd 78421  
General Assembly, Am. H.B. No. 640 of the 123rd General Assembly, 78422  
and H.B. No. 675 of the 124th General Assembly for that campus 78423  
exceeds that campus's capital component earnings. The sum of the 78424  
amounts deducted shall be transferred to appropriation item 78425  
235-552, Capital Component, in each fiscal year. 78426

(D) REDUCTIONS IN EARNINGS 78427

If the total state share of instruction earnings in any 78428  
fiscal year exceed the total appropriations available for such 78429  
purposes, the Board of Regents shall proportionately reduce the 78430  
state share of instruction earnings for all campuses by a uniform 78431  
percentage so that the system wide sum equals available 78432  
appropriations. 78433

(E) EXCEPTIONAL CIRCUMSTANCES 78434

Adjustments may be made to the state share of instruction 78435  
payments and other subsidies distributed by the Board of Regents 78436  
to state-assisted colleges and universities for exceptional 78437  
circumstances. No adjustments for exceptional circumstances may be 78438  
made without the recommendation of the Chancellor and the approval 78439  
of the Controlling Board. 78440

(F) MID-YEAR APPROPRIATION REDUCTIONS TO THE STATE SHARE OF 78441  
INSTRUCTION 78442

The standard provisions of the state share of instruction 78443



calculation as described in the preceding sections of temporary 78444  
law shall apply to any reductions made to appropriation line item 78445  
235-501, State Share of Instruction, before the Board of Regents 78446  
has formally approved the final allocation of the state share of 78447  
instruction funds for any fiscal year. 78448

Any reductions made to appropriation line item 235-501, State 78449  
Share of Instruction, after the Board of Regents has formally 78450  
approved the final allocation of the state share of instruction 78451  
funds for any fiscal year, shall be uniformly applied to each 78452  
campus in proportion to its share of the final allocation. 78453

(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION 78454

The state share of instruction payments to the institutions 78455  
shall be in substantially equal monthly amounts during the fiscal 78456  
year, unless otherwise determined by the Director of Budget and 78457  
Management pursuant to section 126.09 of the Revised Code. 78458  
Payments during the first six months of the fiscal year shall be 78459  
based upon the state share of instruction appropriation estimates 78460  
made for the various institutions of higher education according to 78461  
Board of Regents enrollment estimates. Payments during the last 78462  
six months of the fiscal year shall be distributed after approval 78463  
of the Controlling Board upon the request of the Board of Regents. 78464

(H) LAW SCHOOL SUBSIDY 78465

The state share of instruction to state-supported 78466  
universities for students enrolled in law schools in fiscal year 78467  
2004 and fiscal year 2005 shall be calculated by using the number 78468  
of subsidy-eligible FTE law school students funded by state 78469  
subsidy in fiscal year 1995 or the actual number of 78470  
subsidy-eligible FTE law school students at the institution in the 78471  
fiscal year, whichever is less. 78472

**Section 88.05. HIGHER EDUCATION - BOARD OF TRUSTEES 78473**

Funds appropriated for instructional subsidies at colleges 78474  
and universities may be used to provide such branch or other 78475  
off-campus undergraduate courses of study and such master's degree 78476  
courses of study as may be approved by the Board of Regents. 78477

In providing instructional and other services to students, 78478  
boards of trustees of state-assisted institutions of higher 78479  
education shall supplement state subsidies by income from charges 78480  
to students. Each board shall establish the fees to be charged to 78481  
all students, including an instructional fee for educational and 78482  
associated operational support of the institution and a general 78483  
fee for noninstructional services, including locally financed 78484  
student services facilities used for the benefit of enrolled 78485  
students. The instructional fee and the general fee shall 78486  
encompass all charges for services assessed uniformly to all 78487  
enrolled students. Each board may also establish special purpose 78488  
fees, service charges, and fines as required; such special purpose 78489  
fees and service charges shall be for services or benefits 78490  
furnished individual students or specific categories of students 78491  
and shall not be applied uniformly to all enrolled students. A 78492  
tuition surcharge shall be paid by all students who are not 78493  
residents of Ohio. 78494

The boards of trustees of individual state-assisted 78495  
universities, university branch campuses, community colleges, 78496  
state community colleges, and technical colleges shall limit 78497  
in-state undergraduate instructional and general fee increases for 78498  
an academic year over the amounts charged in the prior academic 78499  
year to no more than six per cent. In addition to the six per cent 78500  
main campus in-state undergraduate instructional and general fee 78501  
increase limit established in this section, the Board of Trustees 78502  
of The Ohio State University may authorize an additional 78503  
university main campus in-state undergraduate instructional and 78504  
general fee increase of three per cent for academic years 78505

2003-2004 and 2004-2005. Except for the board of trustees of the 78506  
Ohio State University, the boards of trustees of individual 78507  
state-assisted universities, university branch campuses, community 78508  
colleges, state community colleges, and technical colleges shall 78509  
not authorize combined instructional and general fee increases of 78510  
more than six per cent in a single vote. The board of trustees of 78511  
The Ohio State University shall not authorize combined 78512  
instructional and general fee increases of more than nine per cent 78513  
in a single vote. The boards of trustees of individual 78514  
state-assisted universities, university branch campuses, community 78515  
colleges, state community colleges, and technical colleges may 78516  
authorize an additional three per cent increase in in-state 78517  
undergraduate instructional and general fees in a separate vote. 78518  
The additional increase shall only be used for providing 78519  
scholarships to low-income students, to be known as Access 78520  
Scholarship Grants, or for any other special purpose that the 78521  
Board of Regents has approved. These fee increase limitations 78522  
apply even if an institutional board of trustees has, prior to the 78523  
effective date of this section, voted to assess a higher fee for 78524  
the 2003-2004 academic year. These limitations shall not apply to 78525  
increases required to comply with institutional covenants related 78526  
to their obligations or to meet unfunded legal mandates or legally 78527  
binding obligations incurred or commitments made prior to the 78528  
effective date of this act with respect to which the institution 78529  
had identified such fee increases as the source of funds. Any 78530  
increase required by such covenants and any such mandates, 78531  
obligations, or commitments shall be reported by the Board of 78532  
Regents to the Controlling Board. These limitations may also be 78533  
modified by the Board of Regents, with the approval of the 78534  
Controlling Board, to respond to exceptional circumstances as 78535  
identified by the Board of Regents. 78536

For purposes of implementing the instructional and general 78537  
fee increase limitations, the instructional and general fees 78538

during an academic year for any state-assisted institution of 78539  
higher education on the quarter system that does not increase its 78540  
instructional and general fees during the summer term shall be 78541  
defined as the sum of the instructional and general fees charged 78542  
to a full-time student in the fall, winter, and spring quarters. 78543

For purposes of implementing the instructional and general 78544  
fee increase limitations, the instructional and general fees 78545  
during an academic year for any state-assisted institution of 78546  
higher education on the quarter system that does increase its 78547  
instructional and general fees during the summer term shall be 78548  
defined as three-fourths of the sum of the instructional and 78549  
general fees charged to a full-time student in the fall, winter, 78550  
spring, and summer quarters. 78551

For purposes of implementing the instructional and general 78552  
fee increase limitations, the instructional and general fees 78553  
during an academic year for any state-assisted institution of 78554  
higher education on the semester system that does not increase its 78555  
instructional and general fees during the summer term shall be 78556  
defined as the sum of the instructional and general fees charged 78557  
to a full-time student in the fall and spring semesters. 78558

For purposes of implementing the instructional and general 78559  
fee increase limitations, the instructional and general fees 78560  
during an academic year for any state-assisted institution of 78561  
higher education on the semester system that does increase its 78562  
instructional and general fees during the summer term shall be 78563  
defined as two-thirds of the sum of the instructional and general 78564  
fees charged to a full-time student in the fall, spring, and 78565  
summer semesters. 78566

The board of trustees of a state-assisted institution of 78567  
higher education shall not authorize a waiver or nonpayment of 78568  
instructional fees or general fees for any particular student or 78569  
any class of students other than waivers specifically authorized 78570

by law or approved by the Chancellor. This prohibition is not 78571  
intended to limit the authority of boards of trustees to provide 78572  
for payments to students for services rendered the institution, 78573  
nor to prohibit the budgeting of income for staff benefits or for 78574  
student assistance in the form of payment of such instructional 78575  
and general fees. Each state-assisted institution of higher 78576  
education in its statement of charges to students shall separately 78577  
identify the instructional fee, the general fee, the tuition 78578  
charge, and the tuition surcharge. Fee charges to students for 78579  
instruction shall not be considered to be a price of service but 78580  
shall be considered to be an integral part of the state government 78581  
financing program in support of higher educational opportunity for 78582  
students. 78583

In providing the appropriations in support of instructional 78584  
services at state-assisted institutions of higher education and 78585  
the appropriations for other instruction it is the intent of the 78586  
General Assembly that faculty members shall devote a proper and 78587  
judicious part of their work week to the actual instruction of 78588  
students. Total class credit hours of production per quarter per 78589  
full-time faculty member is expected to meet the standards set 78590  
forth in the budget data submitted by the Board of Regents. 78591

The authority of government vested by law in the boards of 78592  
trustees of state-assisted institutions of higher education shall 78593  
in fact be exercised by those boards. Boards of trustees may 78594  
consult extensively with appropriate student and faculty groups. 78595  
Administrative decisions about the utilization of available 78596  
resources, about organizational structure, about disciplinary 78597  
procedure, about the operation and staffing of all auxiliary 78598  
facilities, and about administrative personnel shall be the 78599  
exclusive prerogative of boards of trustees. Any delegation of 78600  
authority by a board of trustees in other areas of responsibility 78601  
shall be accompanied by appropriate standards of guidance 78602

concerning expected objectives in the exercise of such delegated 78603  
authority and shall be accompanied by periodic review of the 78604  
exercise of this delegated authority to the end that the public 78605  
interest, in contrast to any institutional or special interest, 78606  
shall be served. 78607

**Section 88.06. STUDENT SUPPORT SERVICES** 78608

The foregoing appropriation item 235-502, Student Support 78609  
Services, shall be distributed by the Board of Regents to Ohio's 78610  
state-assisted colleges and universities that incur 78611  
disproportionate costs in the provision of support services to 78612  
disabled students. 78613

**OHIO INSTRUCTIONAL GRANTS** 78614

Notwithstanding section 3333.12 of the Revised Code, in lieu 78615  
of the tables in that section, instructional grants for all 78616  
full-time students shall be made for fiscal year 2004 using the 78617  
tables under this heading. 78618

The tables under this heading prescribe the maximum grant 78619  
amounts covering two semesters, three quarters, or a comparable 78620  
portion of one academic year. The grant amount for a full-time 78621  
student enrolled in an eligible institution for a semester or 78622  
quarter in addition to the portion of the academic year covered by 78623  
a grant determined under these tables shall be a percentage of the 78624  
maximum prescribed in the applicable table. The maximum grant for 78625  
a fourth quarter shall be one-third of the maximum amount 78626  
prescribed under the table. The maximum grant for a third semester 78627  
shall be one-half of the maximum amount prescribed under the 78628  
table. 78629

For a full-time student who is a dependent and enrolled in a 78630  
nonprofit educational institution that is not a state-assisted 78631  
institution and that has a certificate of authorization issued 78632

pursuant to Chapter 1713. of the Revised Code, the amount of the 78633  
 instructional grant for two semesters, three quarters, or a 78634  
 comparable portion of the academic year shall be determined in 78635  
 accordance with the following table: 78636

Private Institution 78637

Table of Grants 78638

Maximum Grant \$5,466 78639

Gross Income Number of Dependents 78640

	1	2	3	4	5 or more	
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	78642
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466	78643
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466	78644
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466	78645
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466	78646
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920	78647
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362	78648
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828	78649
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288	78650
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736	78651
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178	78652
\$33,001 - \$34,000	888	984	1,080	1,344	1,626	78653
\$34,001 - \$35,000	444	888	984	1,080	1,344	78654
\$35,001 - \$36,000	--	444	888	984	1,080	78655
\$36,001 - \$37,000	--	--	444	888	984	78656
\$37,001 - \$38,000	--	--	--	444	888	78657
\$38,001 - \$39,000	--	--	--	--	444	78658

For a full-time student who is financially independent and 78659  
 enrolled in a nonprofit educational institution that is not a 78660  
 state-assisted institution and that has a certificate of 78661  
 authorization issued pursuant to Chapter 1713. of the Revised 78662  
 Code, the amount of the instructional grant for two semesters, 78663  
 three quarters, or a comparable portion of the academic year shall 78664

be determined in accordance with the following table:								78665	
		Private Institution							78666
		Table of Grants							78667
						Maximum Grant \$5,466		78668	
Gross Income						Number of Dependents		78669	
		0	1	2	3	4	5 or more	78670	
Under \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	78671	
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	5,466	78672	
\$5,301 - \$5,800	4,362	5,028	5,466	5,466	5,466	5,466	5,466	78673	
\$5,801 - \$6,300	3,828	4,584	5,028	5,466	5,466	5,466	5,466	78674	
\$6,301 - \$6,800	3,288	4,158	4,584	5,028	5,466	5,466	5,466	78675	
\$6,801 - \$7,300	2,736	3,726	4,158	4,584	5,028	5,466	5,466	78676	
\$7,301 - \$8,300	2,178	3,282	3,726	4,158	4,584	5,028	5,028	78677	
\$8,301 - \$9,300	1,626	2,838	3,282	3,726	4,158	4,584	4,584	78678	
\$9,301 - \$10,300	1,344	2,394	2,838	3,282	3,726	4,158	4,158	78679	
\$10,301 - \$11,800	1,080	2,166	2,394	2,838	3,282	3,726	3,726	78680	
\$11,801 - \$13,300	984	1,956	2,166	2,394	2,838	3,282	3,282	78681	
\$13,301 - \$14,800	888	1,878	1,956	2,166	2,394	2,838	2,838	78682	
\$14,801 - \$16,300	444	1,692	1,878	1,956	2,166	2,394	2,394	78683	
\$16,301 - \$19,300	--	1,122	1,584	1,770	1,956	2,166	2,166	78684	
\$19,301 - \$22,300	--	546	1,014	1,476	1,662	1,848	1,848	78685	
\$22,301 - \$25,300	--	438	546	1,014	1,476	1,662	1,662	78686	
\$25,301 - \$30,300	--	324	438	546	1,014	1,476	1,476	78687	
\$30,301 - \$35,300	--	198	216	270	324	792	792	78688	

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:

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	Career Institution					78697
	Table of Grants					78698
	Maximum Grant \$4,632					78699
Gross Income	Number of Dependents					78700
	1	2	3	4	5 or more	78701
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	78702
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632	78703
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632	78704
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632	78705
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632	78706
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182	78707
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684	78708
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222	78709
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790	78710
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292	78711
\$32,001 - \$33,000	852	906	1,134	1,416	1,854	78712
\$33,001 - \$34,000	750	852	906	1,134	1,416	78713
\$34,001 - \$35,000	372	750	852	906	1,134	78714
\$35,001 - \$36,000	--	372	750	852	906	78715
\$36,001 - \$37,000	--	--	372	750	852	78716
\$37,001 - \$38,000	--	--	--	372	750	78717
\$38,001 - \$39,000	--	--	--	--	372	78718

For a full-time student who is financially independent and 78719  
enrolled in an educational institution that holds a certificate of 78720  
registration from the state board of career colleges and schools 78721  
or a private institution exempt from regulation under Chapter 78722  
3332. of the Revised Code as prescribed in section 3333.046 of the 78723  
Revised Code, the amount of the instructional grant for two 78724  
semesters, three quarters, or a comparable portion of the academic 78725  
year shall be determined in accordance with the following table: 78726

	Career Institution	78727
	Table of Grants	78728

	Maximum Grant \$4,632						78729
Gross Income	Number of Dependents						78730
	0	1	2	3	4	5 or more	78731
Under \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	78732
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632	78733
\$5,301 - \$5,800	3,684	4,272	4,632	4,632	4,632	4,632	78734
\$5,801 - \$6,300	3,222	3,876	4,272	4,632	4,632	4,632	78735
\$6,301 - \$6,800	2,790	3,504	3,876	4,272	4,632	4,632	78736
\$6,801 - \$7,300	2,292	3,156	3,504	3,876	4,272	4,632	78737
\$7,301 - \$8,300	1,854	2,760	3,156	3,504	3,876	4,272	78738
\$8,301 - \$9,300	1,416	2,412	2,760	3,156	3,504	3,876	78739
\$9,301 - \$10,300	1,134	2,058	2,412	2,760	3,156	3,504	78740
\$10,301 - \$11,800	906	1,836	2,058	2,412	2,760	3,156	78741
\$11,801 - \$13,300	852	1,650	1,836	2,058	2,412	2,760	78742
\$13,301 - \$14,800	750	1,608	1,650	1,836	2,058	2,412	78743
\$14,801 - \$16,300	372	1,434	1,608	1,650	1,836	2,058	78744
\$16,301 - \$19,300	--	942	1,338	1,518	1,650	1,836	78745
\$19,301 - \$22,300	--	456	858	1,242	1,416	1,560	78746
\$22,301 - \$25,300	--	372	456	858	1,242	1,416	78747
\$25,301 - \$30,300	--	282	372	456	858	1,242	78748
\$30,301 - \$35,300	--	168	180	228	282	666	78749

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					78755
	Table of Grants					78756
	Maximum Grant \$2,190					78757
Gross Income	Number of Dependents					78758
	1	2	3	4	5 or more	78759

\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	78760
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190	78761
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190	78762
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190	78763
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190	78764
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	78765
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	78766
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	78767
\$28,001 - \$31,000	522	648	864	1,080	1,320	78768
\$31,001 - \$32,000	420	522	648	864	1,080	78769
\$32,001 - \$33,000	384	420	522	648	864	78770
\$33,001 - \$34,000	354	384	420	522	648	78771
\$34,001 - \$35,000	174	354	384	420	522	78772
\$35,001 - \$36,000	--	174	354	384	420	78773
\$36,001 - \$37,000	--	--	174	354	384	78774
\$37,001 - \$38,000	--	--	--	174	354	78775
\$38,001 - \$39,000	--	--	--	--	174	78776

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							78777
Table of Grants							78778
Maximum Grant \$2,190							78779
Gross Income	Number of Dependents						78780
	0	1	2	3	4	5 or more	78781
Under \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	78782
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	78783
\$5,301 - \$5,800	1,740	2,016	2,190	2,190	2,190	2,190	78784
\$5,801 - \$6,300	1,542	1,830	2,016	2,190	2,190	2,190	78785
\$6,301 - \$6,800	1,320	1,674	1,830	2,016	2,190	2,190	78786

\$6,801 - \$7,300	1,080	1,494	1,674	1,830	2,016	2,190	78792
\$7,301 - \$8,300	864	1,302	1,494	1,674	1,830	2,016	78793
\$8,301 - \$9,300	648	1,128	1,302	1,494	1,674	1,830	78794
\$9,301 - \$10,300	522	954	1,128	1,302	1,494	1,674	78795
\$10,301 - \$11,800	420	858	954	1,128	1,302	1,494	78796
\$11,801 - \$13,300	384	774	858	954	1,128	1,302	78797
\$13,301 - \$14,800	354	744	774	858	954	1,128	78798
\$14,801 - \$16,300	174	678	744	774	858	954	78799
\$16,301 - \$19,300	--	450	630	702	774	858	78800
\$19,301 - \$22,300	--	216	402	594	654	732	78801
\$22,301 - \$25,300	--	174	216	402	594	654	78802
\$25,301 - \$30,300	--	132	174	216	402	594	78803
\$30,301 - \$35,300	--	78	84	102	132	312	78804

The foregoing appropriation item 235-503, Ohio Instructional Grants, shall be used to make the payments authorized by division (C) of section 3333.26 of the Revised Code to the institutions described in that division. In addition, this appropriation shall be used to reimburse the institutions described in division (B) of section 3333.26 of the Revised Code for the cost of the waivers required by that division.

The unencumbered balance of appropriation item 235-503, Ohio Instructional Grants, at the end of fiscal year 2004 shall be transferred to fiscal year 2005 for use under the same appropriation item. The amounts transferred are hereby appropriated.

**WAR ORPHANS SCHOLARSHIPS**

The foregoing appropriation item 235-504, War Orphans Scholarships, shall be used to reimburse state-assisted institutions of higher education for waivers of instructional fees and general fees provided by them, to provide grants to institutions that have received a certificate of authorization from the Ohio Board of Regents under Chapter 1713. of the Revised

Code, in accordance with the provisions of section 5910.04 of the 78824  
Revised Code, and to fund additional scholarship benefits provided 78825  
by section 5910.032 of the Revised Code. 78826

**Section 88.07. AIR FORCE INSTITUTE OF TECHNOLOGY** 78827

The foregoing appropriation item 235-508, Air Force Institute 78828  
of Technology, shall be used to strengthen the research and 78829  
educational linkages between the Wright Patterson Air Force Base 78830  
and institutions of higher education in Ohio. Of the foregoing 78831  
appropriation item 235-508, Air Force Institute of Technology, 78832  
\$1,380,000 in fiscal year 2004 and \$1,380,000 in fiscal year 2005 78833  
shall be used for research projects that connect the Air Force 78834  
Research Laboratories with university partners. The institute 78835  
shall provide annual reports to the Third Frontier Commission, 78836  
that discuss existing, planned, or possible collaborations between 78837  
programs and funding recipients related to technology, research 78838  
development, commercialization, and support for Ohio's economic 78839  
development. 78840

Of the foregoing appropriation item 235-508, Air Force 78841  
Institute of Technology, \$500,000 in each fiscal year shall be 78842  
used to match federal dollars to support the Wright Brothers 78843  
Institute. Funds shall be used by the Wright Brothers Institute to 78844  
create or expand Ohio-based technology and commercial development 78845  
collaborations between industry, academia, and government in areas 78846  
which include carbon nano-tube materials technology, genome-based 78847  
biotechnology, knowledge-creation information technology, 78848  
cognitive systems modeling and engineering, or other related 78849  
projects as deemed appropriate by the institute. 78850

**OHIO SUPERCOMPUTER CENTER** 78851

The foregoing appropriation item 235-510, Ohio Supercomputer 78852  
Center, shall be used by the Board of Regents to support the 78853  
operation of the center, located at The Ohio State University, as 78854

a statewide resource available to Ohio research universities both 78855  
public and private. It is also intended that the center be made 78856  
accessible to private industry as appropriate. Policies of the 78857  
center shall be established by a governance committee, 78858  
representative of Ohio's research universities and private 78859  
industry, to be appointed by the Chancellor of the Board of 78860  
Regents and established for this purpose. 78861

The Ohio Supercomputer Center shall report on expanding 78862  
solutions-oriented, computational science services to industrial 78863  
and other customers, including alignment programs and recipients, 78864  
and develop a plan for a computational science initiative in 78865  
collaboration with the Wright Centers of Innovation program and 78866  
the Computer Science Graduate Studies Program. 78867

COOPERATIVE EXTENSION SERVICE 78868

The foregoing appropriation item 235-511, Cooperative 78869  
Extension Service, shall be disbursed through the Board of Regents 78870  
to The Ohio State University in monthly payments, unless otherwise 78871  
determined by the Director of Budget and Management pursuant to 78872  
section 126.09 of the Revised Code. 78873

Of the foregoing appropriation item 235-511, Cooperative 78874  
Extension Service, \$182,842 in fiscal year 2004 and \$178,271 in 78875  
fiscal year 2005 shall be used for additional staffing for county 78876  
agents for expanded 4-H activities. Of the foregoing appropriation 78877  
item 235-511, Cooperative Extension Service, \$182,842 in fiscal 78878  
year 2004 and \$178,271 in fiscal year 2005 shall be used by the 78879  
Cooperative Extension Service, through the Enterprise Center for 78880  
Economic Development in cooperation with other agencies, for a 78881  
public-private effort to create and operate a small business 78882  
economic development program to enhance the development of 78883  
alternatives to the growing of tobacco, and implement, through 78884  
applied research and demonstration, the production and marketing 78885  
of other high-value crops and value-added products. Of the 78886

foregoing appropriation item 235-511, Cooperative Extension 78887  
Service, \$56,594 in fiscal year 2004 and \$55,179 in fiscal year 78888  
2005 shall be used for farm labor mediation and education 78889  
programs. Of the foregoing appropriation item 235-511, Cooperative 78890  
Extension Service, \$187,195 in fiscal year 2004 and \$182,515 in 78891  
fiscal year 2005 shall be used to support the Ohio State 78892  
University Marion Enterprise Center. 78893

Of the foregoing appropriation item 235-511, Cooperative 78894  
Extension Service, \$792,750 in fiscal year 2004 and \$772,931 in 78895  
fiscal year 2005 shall be used to support the Ohio Watersheds 78896  
Initiative. 78897

CENTRAL STATE SUPPLEMENT 78898

The foregoing appropriation item 235-514, Central State 78899  
Supplement, shall be used by Central State University to keep 78900  
undergraduate fees below the statewide average, consistent with 78901  
its mission of service to many first-generation college students 78902  
from groups historically underrepresented in higher education and 78903  
from families with limited incomes. 78904

PERFORMANCE STANDARDS FOR MEDICAL EDUCATION 78905

The Board of Regents, in consultation with the state-assisted 78906  
medical colleges, shall develop performance standards for medical 78907  
education. Special emphasis in the standards shall be placed on 78908  
attempting to ensure that at least 50 per cent of the aggregate 78909  
number of students enrolled in state-assisted medical colleges 78910  
continue to enter residency as primary care physicians. Primary 78911  
care physicians are general family practice physicians, general 78912  
internal medicine practitioners, and general pediatric care 78913  
physicians. The Board of Regents shall monitor medical school 78914  
performance in relation to their plans for reaching the 50 per 78915  
cent systemwide standard for primary care physicians. 78916

Section 88.08. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF MEDICINE 78917  
78918

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. 78919  
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STATE UNIVERSITY CLINICAL TEACHING 78926

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. 78927  
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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. 78934  
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FAMILY PRACTICE, GERIATRIC MEDICINE, AND PRIMARY CARE RESIDENCIES 78939  
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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. 78941  
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SHAWNEE STATE SUPPLEMENT 78946



The foregoing appropriation item 235-520, Shawnee State Supplement, shall be used by Shawnee State University as detailed by both of the following:

(A) To allow Shawnee State University to keep its undergraduate fees below the statewide average, consistent with its mission of service to an economically depressed Appalachian region;

(B) To allow Shawnee State University to employ new faculty to develop and teach in new degree programs that meet the needs of Appalachians.

POLICE AND FIRE PROTECTION

The foregoing appropriation item 235-524, Police and Fire Protection, shall be used for police and fire services in the municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, Portsmouth, Xenia Township (Greene County), and Rootstown Township, that may be used to assist these local governments in providing police and fire protection for the central campus of the state-affiliated university located therein. Each participating municipality and township shall receive at least \$5,000 each year. Funds shall be distributed according to the methodology employed by the Board of Regents in the previous biennium.

PRIMARY CARE RESIDENCIES

The foregoing appropriation item 235-526, Primary Care Residencies, shall be distributed in each fiscal year of the biennium, based on whether or not the institution has submitted and gained approval for a plan. If the institution does not have an approved plan, it shall receive five per cent less funding per student than it would have received from its annual allocation. The remaining funding shall be distributed among those institutions that meet or exceed their targets.

OHIO AEROSPACE INSTITUTE 78977

The foregoing appropriation item 235-527, Ohio Aerospace 78978  
Institute, shall be distributed by the Board of Regents under 78979  
section 3333.042 of the Revised Code. The Board of Regents, in 78980  
conjunction with the Third Frontier Commission, shall review the 78981  
progress of the Ohio Aerospace Institute's efforts in the context 78982  
of the original mission to support academic research and education 78983  
in aerospace engineering. These findings will be used to determine 78984  
whether or not the institute shall continue to receive state 78985  
funding. If a determination is made to discontinue state support 78986  
for the Ohio Aerospace Institute through this appropriation item, 78987  
the Board of Regents may utilize this appropriation item to fund 78988  
other initiatives that support the advancement of aerospace 78989  
research or education in aerospace engineering. 78990

ACADEMIC SCHOLARSHIPS 78991

The foregoing appropriation item 235-530, Academic 78992  
Scholarships, shall be used to provide academic scholarships to 78993  
students under section 3333.22 of the Revised Code. 78994

STUDENT CHOICE GRANTS 78995

The foregoing appropriation item 235-531, Student Choice 78996  
Grants, shall be used to support the Student Choice Grant Program 78997  
created by section 3333.27 of the Revised Code. The unencumbered 78998  
balance of appropriation item 235-531, Student Choice Grants, at 78999  
the end of fiscal year 2004 shall be transferred to fiscal year 79000  
2005 for use under the same appropriation item to maintain grant 79001  
award amounts in fiscal year 2005 equal to the awards provided in 79002  
fiscal year 2004. The amounts transferred are hereby appropriated. 79003

STUDENT WORKFORCE DEVELOPMENT GRANTS 79004

The foregoing appropriation item 235-534, Student Workforce 79005  
Development Grants, shall be used to support the Student Workforce 79006

Development Grant Program. Of the appropriated funds available, 79007  
the Board of Regents shall distribute grants to each eligible 79008  
student in an academic year. The size of each grant award shall be 79009  
determined by the Board of Regents based on the amount of funds 79010  
available for the program. 79011

OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT CENTER 79012

The foregoing appropriation item 235-535, Ohio Agricultural 79013  
Research and Development Center, shall be disbursed through the 79014  
Board of Regents to The Ohio State University in monthly payments, 79015  
unless otherwise determined by the Director of Budget and 79016  
Management pursuant to section 126.09 of the Revised Code. The 79017  
Ohio Agricultural Research and Development Center shall not be 79018  
required to remit payment to The Ohio State University during the 79019  
2003-2005 biennium for cost reallocation assessments. The cost 79020  
reallocation assessments include, but are not limited to, any 79021  
assessment on state appropriations to the center. The Ohio 79022  
Agricultural Research and Development Center, in conjunction with 79023  
the Third Frontier Commission, shall provide for an independently 79024  
evaluated self-study of research excellence and commercial 79025  
relevance in a manner to be prescribed by the Third Frontier 79026  
Commission. 79027

Of the foregoing appropriation item 235-535, Ohio 79028  
Agricultural Research and Development Center, \$470,164 in fiscal 79029  
year 2004 and \$458,410 in fiscal year 2005 shall be used to 79030  
purchase equipment. 79031

Of the foregoing appropriation item 235-535, Ohio 79032  
Agricultural Research and Development Center, \$827,141 in fiscal 79033  
year 2004 and \$806,463 in fiscal year 2005 shall be distributed to 79034  
the Piketon Agricultural Research and Extension Center. 79035

Of the foregoing appropriation item 235-535, Ohio 79036  
Agricultural Research and Development Center, \$217,669 in fiscal 79037

year 2004 and \$212,227 in fiscal year 2005 shall be distributed to 79038  
the Raspberry/Strawberry-Ellagic Acid Research program at the Ohio 79039  
State University Medical College in cooperation with the Ohio 79040  
State University College of Agriculture. 79041

Of the foregoing appropriation item 235-535, Ohio 79042  
Agricultural Research and Development Center, \$43,534 in fiscal 79043  
year 2004 and \$42,445 in fiscal year 2005 shall be used to support 79044  
the Ohio Berry Administrator. 79045

Of the foregoing appropriation item 235-535, Ohio 79046  
Agricultural Research and Development Center, \$87,067 in fiscal 79047  
year 2004 and \$84,890 in fiscal year 2005 shall be used for the 79048  
development of agricultural crops and products not currently in 79049  
widespread production in Ohio, in order to increase the income and 79050  
viability of family farmers. 79051

SCHOOL OF INTERNATIONAL BUSINESS 79052

Of the foregoing appropriation item 235-547, School of 79053  
International Business, \$901,975 in fiscal year 2004 and \$879,426 79054  
in fiscal year 2005 shall be used for the continued development 79055  
and support of the School of International Business of the state 79056  
universities of northeast Ohio. The money shall go to the 79057  
University of Akron. These funds shall be used by the university 79058  
to establish a School of International Business located at the 79059  
University of Akron. It may confer with Kent State University, 79060  
Youngstown State University, and Cleveland State University as to 79061  
the curriculum and other matters regarding the school. 79062

Of the foregoing appropriation item 235-547, School of 79063  
International Business, \$181,318 in fiscal year 2004 and \$176,785 79064  
in fiscal year 2005 shall be used by the University of Toledo 79065  
College of Business for expansion of its international business 79066  
programs. 79067

Of the foregoing appropriation item 235-547, School of 79068

International Business, \$181,318 in fiscal year 2004 and \$176,785 79069  
in fiscal year 2005 shall be used to support the Ohio State 79070  
University BioMEMS program. 79071

**PART-TIME STUDENT INSTRUCTIONAL GRANTS** 79072

The foregoing appropriation item 235-549, Part-time Student 79073  
Instructional Grants, shall be used to support a grant program for 79074  
part-time undergraduate students who are Ohio residents and who 79075  
are enrolled in degree granting programs. 79076

Eligibility for participation in the program shall include 79077  
degree granting educational institutions that hold a certificate 79078  
of registration from the State Board of Career Colleges and 79079  
Schools, and nonprofit institutions that have a certificate of 79080  
authorization issued pursuant to Chapter 1713. of the Revised 79081  
Code, as well as state-assisted colleges and universities. Grants 79082  
shall be given to students on the basis of need, as determined by 79083  
the college, which, in making these determinations, shall give 79084  
special consideration to single-parent heads-of-household and 79085  
displaced homemakers who enroll in an educational degree program 79086  
that prepares the individual for a career. In determining need, 79087  
the college also shall consider the availability of educational 79088  
assistance from a student's employer. It is the intent of the 79089  
General Assembly that these grants not supplant such assistance. 79090

**Section 88.09. CAPITAL COMPONENT** 79091

The foregoing appropriation item 235-552, Capital Component, 79092  
shall be used by the Board of Regents to implement the capital 79093  
funding policy for state-assisted colleges and universities 79094  
established in Am. H.B. No. 748 of the 121st General Assembly. 79095  
Appropriations from this item shall be distributed to all campuses 79096  
for which the estimated campus debt service attributable to new 79097  
qualifying capital projects is less than the campus's 79098  
formula-determined capital component allocation. Campus 79099

allocations shall be determined by subtracting the estimated 79100  
campus debt service attributable to new qualifying capital 79101  
projects from the campus's formula-determined capital component 79102  
allocation. Moneys distributed from this appropriation item shall 79103  
be restricted to capital-related purposes. 79104

Any campus for which the estimated campus debt service 79105  
attributable to qualifying capital projects is greater than the 79106  
campus's formula-determined capital component allocation shall 79107  
have the difference subtracted from its State Share of Instruction 79108  
allocation in each fiscal year. The sum of all such amounts shall 79109  
be transferred from appropriation item 235-501, State Share of 79110  
Instruction, to appropriation item 235-552, Capital Component. 79111

DAYTON AREA GRADUATE STUDIES INSTITUTE 79112

The foregoing appropriation item 235-553, Dayton Area 79113  
Graduate Studies Institute, shall be used by the Board of Regents 79114  
to support the Dayton Area Graduate Studies Institute, an 79115  
engineering graduate consortium of three universities in the 79116  
Dayton area: Wright State University, the University of Dayton, 79117  
and the Air Force Institute of Technology, with the participation 79118  
of the University of Cincinnati and The Ohio State University. 79119

COMPUTER SCIENCE GRADUATE EDUCATION 79120

The foregoing appropriation item 235-554, Computer Science 79121  
Graduate Education, shall be used by the Board of Regents to 79122  
support improvements in graduate programs in computer science at 79123  
state-assisted universities. Up to \$174,135 in fiscal year 2004, 79124  
and up to \$169,782 in fiscal year 2005, may be used to support 79125  
collaborative efforts in graduate education in this program area. 79126  
The collaborative program shall be coordinated by the Ohio 79127  
Supercomputer Center. 79128

OHIO ACADEMIC RESOURCES NETWORK (OARNET) 79129

The foregoing appropriation item 235-556, Ohio Academic 79130

Resources Network, shall be used to support the operations of the 79131  
Ohio Academic Resources Network, which shall include support for 79132  
Ohio's state-assisted colleges and universities in maintaining and 79133  
enhancing network connections. The network shall give priority to 79134  
supporting the Third Frontier Network and allocating bandwidth to 79135  
programs directly supporting Ohio's economic development. 79136

**LONG-TERM CARE RESEARCH** 79137

The foregoing appropriation item 235-558, Long-term Care 79138  
Research, shall be disbursed to Miami University for long-term 79139  
care research. 79140

**BOWLING GREEN STATE UNIVERSITY CANADIAN STUDIES CENTER** 79141

The foregoing appropriation item 235-561, Bowling Green State 79142  
University Canadian Studies Center, shall be used by the Canadian 79143  
Studies Center at Bowling Green State University to study 79144  
opportunities for Ohio and Ohio businesses to benefit from the 79145  
Free Trade Agreement between the United States and Canada. 79146

**THE OHIO STATE UNIVERSITY CLINIC SUPPORT** 79147

The foregoing appropriation item 235-572, The Ohio State 79148  
University Clinic Support, shall be distributed through the Board 79149  
of Regents to The Ohio State University for support of dental and 79150  
veterinary medicine clinics. 79151

**Section 88.10. URBAN UNIVERSITY PROGRAMS** 79152

Of the foregoing appropriation item 235-583, Urban University 79153  
Programs, universities receiving funds that are used to support an 79154  
ongoing university unit shall certify periodically in a manner 79155  
approved by the Board of Regents that program funds are being 79156  
matched on a one-to-one basis with equivalent resources. Overhead 79157  
support may not be used to meet this requirement. Where Urban 79158  
University Program funds are being used to support an ongoing 79159  
university unit, matching funds shall come from continuing rather 79160

than one-time sources. At each participating state-assisted 79161  
institution of higher education, matching funds shall be within 79162  
the substantial control of the individual designated by the 79163  
institution's president as the Urban University Program 79164  
representative. 79165

Of the foregoing appropriation item 235-583, Urban University 79166  
Programs, \$317,754 in fiscal year 2004 and \$309,811 in fiscal year 79167  
2005 shall be used to support a public communication outreach 79168  
program (WCPN). The primary purpose of the program shall be to 79169  
develop a relationship between Cleveland State University and 79170  
nonprofit communications entities. 79171

Of the foregoing appropriation item 235-583, Urban University 79172  
Programs, \$150,515 in fiscal year 2004 and \$146,753 in fiscal year 79173  
2005 shall be used to support the Center for the Interdisciplinary 79174  
Study of Education and the Urban Child at Cleveland State 79175  
University. These funds shall be distributed according to rules 79176  
adopted by the Board of Regents and shall be used by the center 79177  
for interdisciplinary activities targeted toward increasing the 79178  
chance of lifetime success of the urban child, including 79179  
interventions beginning with the prenatal period. The primary 79180  
purpose of the center is to study issues in urban education and to 79181  
systematically map directions for new approaches and new solutions 79182  
by bringing together a cadre of researchers, scholars, and 79183  
professionals representing the social, behavioral, education, and 79184  
health disciplines. 79185

Of the foregoing appropriation item 235-583, Urban University 79186  
Programs, \$217,411 in fiscal year 2004 and \$211,976 in fiscal year 79187  
2005 shall be used to support the Kent State University Learning 79188  
and Technology Project. This project is a kindergarten through 79189  
university collaboration between schools surrounding Kent's eight 79190  
campuses in northeast Ohio, and corporate partners who will assist 79191  
in development and delivery. 79192



The Kent State University Project shall provide a faculty member who has a full-time role in the development of collaborative activities and teacher instructional programming between Kent and the K-12th grade schools that surround its eight campuses; appropriate student support staff to facilitate these programs and joint activities; and hardware and software to schools that will make possible the delivery of instruction to pre-service and in-service teachers, and their students, in their own classrooms or school buildings. This shall involve the delivery of low-bandwidth streaming video and web-based technologies in a distributed instructional model.

Of the foregoing appropriation item 235-583, Urban University Programs, \$83,619 in fiscal year 2004 and \$81,529 in fiscal year 2005 shall be used to support the Ameritech Classroom/Center for Research at Kent State University.

Of the foregoing appropriation item 235-583, Urban University Programs, \$836,198 in fiscal year 2004 and \$815,293 in fiscal year 2005 shall be used to support the Polymer Distance Learning Project at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Programs, \$41,810 in fiscal year 2004 and \$40,765 in fiscal year 2005 shall be distributed to the Kent State University/Cleveland Design Center program.

Of the foregoing appropriation item 235-583, Urban University Programs, \$209,049 in fiscal year 2004 and \$203,823 in fiscal year 2005 shall be used to support the Bliss Institute of Applied Politics at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Programs, \$12,544 in fiscal year 2004 and \$12,228 in fiscal year 2005 shall be used for the Advancing-Up Program at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Programs, \$1,840,168 in fiscal year 2004 and \$1,794,164 in fiscal year 2005 shall be distributed by the Board of Regents to Cleveland State University in support of the Maxine Goodman Levin College of Urban Affairs.

Of the foregoing appropriation item 235-583, Urban University Programs, \$1,840,168 in fiscal year 2004 and \$1,794,164 in fiscal year 2005 shall be distributed to the Northeast Ohio Research Consortium, the Urban Linkages Program, and the Urban Research Technical Assistance Grant Program. The distribution among the three programs shall be determined by the chair of the Urban University Program.

Of the foregoing appropriation item 235-583, Urban University Programs, \$175,000 in each fiscal year shall be used to support the Strategic Economic Research Collaborative at the University of Toledo Urban Affairs Center.

Of the foregoing appropriation item 235-583, Urban University Programs, \$175,000 in each fiscal year shall be used to support the Institute for Collaborative Research and Public Humanities at The Ohio State University.

**RURAL UNIVERSITY PROJECTS**

Of the foregoing appropriation item 235-587, Rural University Projects, Bowling Green State University shall receive \$300,160 in fiscal year 2004 and \$300,160 in fiscal year 2005, Miami University shall receive \$279,005 in fiscal year 2004 and \$279,005 in fiscal year 2005, and Ohio University shall receive \$726,345 in fiscal year 2004 and \$726,345 in fiscal year 2005. These funds shall be used to support the Institute for Local Government Administration and Rural Development at Ohio University, the Center for Public Management and Regional Affairs at Miami University, and the Center for Policy Analysis and Public Service

at Bowling Green State University. 79255

A small portion of the funds provided to Ohio University 79256  
shall also be used for the Institute for Local Government 79257  
Administration and Rural Development State and Rural Policy 79258  
Partnership with the Governor's Office of Appalachia and the 79259  
Appalachian delegation of the General Assembly. 79260

**Section 88.11.** OHIO RESOURCE CENTER FOR MATHEMATICS, SCIENCE, 79261  
AND READING 79262

The foregoing appropriation item 235-588, Ohio Resource 79263  
Center for Mathematics, Science, and Reading, shall be used to 79264  
support a resource center for mathematics, science, and reading to 79265  
be located at a state-assisted university for the purpose of 79266  
identifying best educational practices in primary and secondary 79267  
schools and establishing methods for communicating them to 79268  
colleges of education and school districts. 79269

INTERNATIONAL CENTER FOR WATER RESOURCES DEVELOPMENT 79270

The foregoing appropriation item 235-595, International 79271  
Center for Water Resources Development, shall be used to support 79272  
the International Center for Water Resources Development at 79273  
Central State University. The center shall develop methods to 79274  
improve the management of water resources for Ohio and for 79275  
emerging nations. 79276

HAZARDOUS MATERIALS PROGRAM 79277

The foregoing appropriation item 235-596, Hazardous Materials 79278  
Program, shall be disbursed to Cleveland State University for the 79279  
operation of a program to certify firefighters for the handling of 79280  
hazardous materials. Training shall be available to all Ohio 79281  
firefighters. 79282

Of the foregoing appropriation item 235-596, Hazardous 79283  
Materials Program, \$130,601 in fiscal year 2004 and \$127,337 in 79284

fiscal year 2005 shall be used to support the Center for the 79285  
Interdisciplinary Study of Education and Leadership in Public 79286  
Service at Cleveland State University. These funds shall be 79287  
distributed by the Board of Regents and shall be used by the 79288  
center targeted toward increasing the role of special populations 79289  
in public service and not-for-profit organizations. The primary 79290  
purpose of the center is to study issues in public service and to 79291  
guide strategies for attracting new communities into public 79292  
service occupations by bringing together a cadre of researchers, 79293  
scholars and professionals representing the public administration, 79294  
social behavioral, and education disciplines. 79295

NATIONAL GUARD SCHOLARSHIP PROGRAM 79296

The Board of Regents shall disburse funds from appropriation 79297  
item 235-599, National Guard Scholarship Program, at the direction 79298  
of the Adjutant General. 79299

\* PLEDGE OF FEES 79300

Any new pledge of fees, or new agreement for adjustment of 79301  
fees, made in the 2003-2005 biennium to secure bonds or notes of a 79302  
state-assisted institution of higher education for a project for 79303  
which bonds or notes were not outstanding on the effective date of 79304  
this section shall be effective only after approval by the Board 79305  
of Regents, unless approved in a previous biennium. 79306

HIGHER EDUCATION GENERAL OBLIGATION DEBT SERVICE 79307

The foregoing appropriation item 235-909, Higher Education 79308  
General Obligation Debt Service, shall be used to pay all debt 79309  
service and related financing costs at the times they are required 79310  
to be made pursuant to sections 151.01 and 151.04 of the Revised 79311  
Code during the period from July 1, 2003, to June 30, 2005. The 79312  
Office of the Sinking Fund or the Director of Budget and 79313  
Management shall effectuate the required payments by an intrastate 79314  
transfer voucher. 79315

**Section 88.12.** OHIO HIGHER EDUCATIONAL FACILITY COMMISSION 79316  
SUPPORT 79317

The foregoing appropriation item 235-602, Higher Educational 79318  
Facility Commission Administration, shall be used by the Board of 79319  
Regents for operating expenses related to the Board of Regents' 79320  
support of the activities of the Ohio Higher Educational Facility 79321  
Commission. Upon the request of the chancellor, the Director of 79322  
Budget and Management shall transfer up to \$20,000 cash from Fund 79323  
461 to Fund 4E8 in each fiscal year of the biennium. 79324

PHYSICIAN LOAN REPAYMENT 79325

The foregoing appropriation item 235-604, Physician Loan 79326  
Repayment, shall be used in accordance with sections 3702.71 to 79327  
3702.81 of the Revised Code. 79328

NURSING LOAN PROGRAM 79329

The foregoing appropriation item 235-606, Nursing Loan 79330  
Program, shall be used to administer the nurse education 79331  
assistance program. Up to \$159,600 in fiscal year 2004 and 79332  
\$167,580 in fiscal year 2005 may be used for operating expenses 79333  
associated with the program. Any additional funds needed for the 79334  
administration of the program are subject to Controlling Board 79335  
approval. 79336

**Section 88.13.** SCIENCE AND TECHNOLOGY COLLABORATION 79337

The Board of Regents shall work in close collaboration with 79338  
the Department of Development and the Third Frontier Commission in 79339  
relation to appropriation items and programs listed in the 79340  
following paragraph, and other technology-related appropriations 79341  
and programs in the Department of Development and the Board of 79342  
Regents as these agencies may designate, to ensure implementation 79343  
of a coherent state strategy with respect to science and 79344

technology. 79345

Each of the following appropriations and programs: 195-401, 79346  
Thomas Edison Program; 195-408, Coal Research Development; 79347  
195-422, Third Frontier Action Fund; 195-632, Coal Research and 79348  
Development Fund; 235-454, Research Challenge; 235-508, Air Force 79349  
Institute of Technology; 235-510, Ohio Supercomputer Center; 79350  
235-527, Ohio Aerospace Institute; 235-535, Ohio Agricultural 79351  
Research and Development Center; 235-553, Dayton Area Graduate 79352  
Studies Institute; 235-554, Computer Science Graduate Education; 79353  
235-556, Ohio Academic Resources Network; and 195-405, Biomedical 79354  
Research and Technology Transfer Trust, shall be reviewed annually 79355  
by the Third Frontier Commission with respect to its development 79356  
of complementary relationships within a combined state science and 79357  
technology investment portfolio and its overall contribution to 79358  
the state's science and technology strategy, including the 79359  
adoption of appropriately consistent criteria for: (1) the 79360  
scientific merit of activities supported by the program; (2) the 79361  
relevance of the program's activities to commercial opportunities 79362  
in the private sector; (3) the private sector's involvement in a 79363  
process that continually evaluates commercial opportunities to use 79364  
the work supported by the program; and (4) the ability of the 79365  
program and recipients of grant funding from the program to engage 79366  
in activities that are collaborative, complementary, and efficient 79367  
with respect to the expenditure of state funds. All programs 79368  
listed above shall provide annual reports to the Third Frontier 79369  
Commission discussing existing, planned, or possible 79370  
collaborations between programs and recipients of grant funding 79371  
related to technology, development, commercialization, and 79372  
supporting Ohio's economic development. The annual review by the 79373  
Third Frontier Commission shall be a comprehensive review of the 79374  
entire state science and technology program portfolio rather than 79375  
a review of individual programs. 79376

REPAYMENT OF RESEARCH FACILITY INVESTMENT FUND MONEYS 79377

Notwithstanding any provision of law to the contrary, all 79378  
repayments of Research Facility Investment Fund loans shall be 79379  
made to the Bond Service Trust Fund. All Research Facility 79380  
Investment Fund loan repayments made prior to the effective date 79381  
of this section shall be transferred by the Director of Budget and 79382  
Management to the Bond Service Trust Fund within sixty days of the 79383  
effective date of this section. 79384

Campuses shall make timely repayments of Research Facility 79385  
Investment Fund loans, according to the schedule established by 79386  
the Board of Regents. In the case of late payments, the Board of 79387  
Regents may deduct from an institution's periodic subsidy 79388  
distribution an amount equal to the amount of the overdue payment 79389  
for that institution, transfer such amount to the Bond Service 79390  
Trust Fund, and credit the appropriate institution for the 79391  
repayment. 79392

VETERANS' PREFERENCES 79393

The Board of Regents shall work with the Governor's Office of 79394  
Veterans' Affairs to develop specific veterans' preference 79395  
guidelines for higher education institutions. These guidelines 79396  
shall ensure that the institutions' hiring practices are in 79397  
accordance with the intent of Ohio's veterans' preference laws. 79398

**Section 88.15.** STUDY OF CO-LOCATED INSTITUTIONS 79399

The Board of Regents shall review the operation and 79400  
effectiveness of co-located university branch campuses and 79401  
technical colleges, with particular attention to improved 79402  
responsiveness to community needs and improved transfer of 79403  
coursework. The Board of Regents shall report its findings and 79404  
recommendations to the General Assembly not later than May 15, 79405  
2004. 79406

<b>Section 89. DRC DEPARTMENT OF REHABILITATION AND CORRECTION</b>				79407
General Revenue Fund				79408
GRF 501-321	Institutional	\$ 849,631,155	\$ 861,557,899	79409
	Operations			
GRF 501-403	Prisoner Compensation	\$ 8,455,052	\$ 8,705,052	79410
GRF 501-405	Halfway House	\$ 36,640,139	\$ 35,579,419	79411
GRF 501-406	Lease Rental Payments	\$ 141,997,000	\$ 146,307,900	79412
GRF 501-407	Community	\$ 15,161,353	\$ 15,352,814	79413
	Nonresidential			
	Programs			
GRF 501-408	Community Misdemeanor	\$ 7,942,211	\$ 8,041,489	79414
	Programs			
GRF 501-501	Community Residential	\$ 52,720,123	\$ 52,872,875	79415
	Programs - CBCF			
GRF 502-321	Mental Health Services	\$ 67,052,290	\$ 68,265,662	79416
GRF 503-321	Parole and Community	\$ 77,445,938	\$ 78,845,845	79417
	Operations			
GRF 504-321	Administrative	\$ 26,533,707	\$ 27,420,848	79418
	Operations			
GRF 505-321	Institution Medical	\$ 118,406,940	\$ 120,014,320	79419
	Services			
GRF 506-321	Institution Education	\$ 24,335,287	\$ 24,747,574	79420
	Services			
GRF 507-321	Institution Recovery	\$ 7,018,500	\$ 7,124,516	79421
	Services			
TOTAL GRF	General Revenue Fund	\$ 1,433,339,695	\$ 1,454,836,213	79422
General Services Fund Group				79423
4B0 501-601	Penitentiary Sewer	\$ 1,693,129	\$ 1,758,177	79424
	Treatment Facility			
	Services			
4D4 501-603	Prisoner Programs	\$ 20,537,291	\$ 20,967,703	79425
4L4 501-604	Transitional Control	\$ 1,348,740	\$ 1,593,794	79426



4S5	501-608	Education Services	\$	4,452,754	\$	4,564,072	79427
483	501-605	Property Receipts	\$	383,894	\$	393,491	79428
5H8	501-617	Offender Financial	\$	1,335,000	\$	1,374,020	79429
		Responsibility					
5L6	501-611	Information Technology	\$	3,650,712	\$	3,741,980	79430
		Services					
571	501-606	Training Academy	\$	73,356	\$	75,190	79431
		Receipts					
593	501-618	Laboratory Services	\$	4,707,730	\$	4,825,423	79432
TOTAL GSF		General Services Fund	\$	38,182,606	\$	39,293,850	79433
Group							
Federal Special Revenue Fund Group							79434
3S1	501-615	Truth-In-Sentencing	\$	24,604,435	\$	25,517,173	79435
		Grants					
323	501-619	Federal Grants	\$	10,759,329	\$	11,300,335	79436
TOTAL FED		Federal Special Revenue					79437
Fund Group			\$	35,363,764	\$	36,817,508	79438
Intragovernmental Service Fund Group							79439
148	501-602	Services and	\$	95,207,653	\$	95,207,653	79440
		Agricultural					
200	501-607	Ohio Penal Industries	\$	29,748,175	\$	31,491,879	79441
TOTAL ISF		Intragovernmental					79442
Service Fund Group			\$	124,955,828	\$	126,699,532	79443
TOTAL ALL BUDGET FUND GROUPS			\$	1,631,841,893	\$	1,657,647,103	79444

COMMUNITY CORRECTIONS TRANSFERS 79445

With the approval of the Controlling Board, the Department of 79446  
 Rehabilitation and Correction shall transfer in FY 2005 from the 79447  
 unexpended, unobligated GRF appropriations made to the Department 79448  
 for fiscal years 2004 and 2005 at least \$3,500,000 in 79449  
 appropriation authority to appropriation item 501-405, Halfway 79450  
 House, and at least \$1,000,000 in appropriation authority to 79451  
 appropriation item 501-501, Community Residential Programs - CBCF. 79452

ZERO-BASED BUDGETING 79453

The Director of Budget and Management shall prepare a full 79454  
zero-based budget for the biennium ending June 30, 2007, for the 79455  
Department of Rehabilitation and Correction. The Director shall 79456  
offer the Department substantial technical assistance throughout 79457  
the process of preparing its zero-based budget. The Department 79458  
shall prepare a full zero-based budget in such manner and 79459  
according to such schedule as the Director of Budget and 79460  
Management requires. The zero-based budget shall, as the Director 79461  
of Budget and Management determines, be in addition to or in place 79462  
of the estimates of revenue and proposed expenditures that the 79463  
Department otherwise would be required to prepare under section 79464  
126.02 of the Revised Code. 79465

OHIO BUILDING AUTHORITY LEASE PAYMENTS 79466

The foregoing appropriation item 501-406, Lease Rental 79467  
Payments, shall be used for payments to the Ohio Building 79468  
Authority for the period July 1, 2003, to June 30, 2005, pursuant 79469  
to the primary leases and agreements for those buildings made 79470  
under Chapter 152. of the Revised Code but limited to the 79471  
aggregate amount of \$288,304,900. This appropriation amount is the 79472  
source of funds pledged for bond service charges on related 79473  
obligations issued pursuant to Chapter 152. of the Revised Code. 79474

PRISONER COMPENSATION 79475

Money from the foregoing appropriation item 501-403, Prisoner 79476  
Compensation, shall be transferred on a quarterly basis by 79477  
intrastate transfer voucher to the Services and Agricultural Fund 79478  
(Fund 148) for the purposes of paying prisoner compensation. 79479

CASH TRANSFER TO THE OFFENDER FINANCIAL RESPONSIBILITY FUND 79480

On July 1, 2003, or as soon thereafter as possible, the 79481  
Director of Budget and Management shall transfer the cash balance 79482

in the Adult Parole Authority Probation Services Fund (Fund 5A3) 79483  
to the Offender Financial Responsibility Fund (Fund 5H8). 79484

**Section 90. RSC REHABILITATION SERVICES COMMISSION** 79485

General Revenue Fund 79486

GRF 415-100 Personal Services \$ 8,677,911 \$ 8,851,468 79487

GRF 415-402 Independent Living \$ 12,040 \$ 12,280 79488

Council

GRF 415-403 Mental Health Services \$ 717,221 \$ 717,221 79489

GRF 415-404 MR/DD Services \$ 1,260,816 \$ 1,260,816 79490

GRF 415-405 Vocational \$ 536,912 \$ 536,912 79491

Rehabilitation/Job and  
Family Services

GRF 415-406 Assistive Technology \$ 47,531 \$ 47,531 79492

GRF 415-431 Office for People with \$ 222,364 \$ 226,012 79493

Brain Injury

GRF 415-506 Services for People \$ 11,830,306 \$ 12,185,215 79494

with Disabilities

GRF 415-508 Services for the Deaf \$ 50,000 \$ 50,000 79495

GRF 415-509 Services for the \$ 359,377 \$ 359,377 79496

Elderly

GRF 415-520 Independent Living \$ 50,000 \$ 50,000 79497

Services

TOTAL GRF General Revenue Fund \$ 23,764,478 \$ 24,296,832 79498

General Services Fund Group 79499

4W5 415-606 Administrative \$ 18,016,543 \$ 18,557,040 79500

Expenses

467 415-609 Business Enterprise \$ 1,584,545 \$ 1,632,082 79501

Operating Expenses

TOTAL GSF General Services 79502

Fund Group \$ 19,601,088 \$ 20,189,122 79503

Federal Special Revenue Fund Group 79504

3L1	415-601	Social Security Personal Care Assistance	\$	3,984,486	\$	3,988,032	79505
3L1	415-605	Social Security Community Centers for the Deaf	\$	1,100,488	\$	1,100,488	79506
3L1	415-607	Social Security Administration Cost	\$	174,119	\$	175,860	79507
3L1	415-608	Social Security Special Programs/Assistance	\$	6,941,158	\$	6,941,158	79508
3L1	415-610	Social Security Vocational Rehabilitation	\$	1,338,324	\$	1,338,324	79509
3L1	415-614	Social Security Independent Living	\$	385,917	\$	385,917	79510
3L4	415-612	Federal-Independent Living Centers or Services	\$	663,687	\$	663,687	79511
3L4	415-615	Federal - Supported Employment	\$	1,714,546	\$	1,714,546	79512
3L4	415-617	Independent Living/Vocational Rehabilitation Programs	\$	1,582,484	\$	1,582,484	79513
317	415-620	Disability Determination	\$	73,120,329	\$	76,776,343	79514
379	415-616	Federal-Vocational Rehabilitation	\$	117,955,833	\$	125,520,457	79515
TOTAL FED		Federal Special Revenue Fund Group					79516
			\$	208,961,371	\$	220,187,296	79517
		State Special Revenue Fund Group					79518
4L1	415-619	Services for	\$	3,623,845	\$	3,176,070	79519

Rehabilitation

468 415-618 Third Party Funding	\$	1,692,991	\$	2,392,991	79520
TOTAL SSR State Special					79521
Revenue Fund Group	\$	5,316,836	\$	5,569,061	79522
TOTAL ALL BUDGET FUND GROUPS	\$	257,643,773	\$	270,242,311	79523

MR/DD SERVICES 79524

The foregoing appropriation item 415-404, MR/DD Services, 79525  
shall be used as state matching funds to provide vocational 79526  
rehabilitation services to mutually eligible clients between the 79527  
Rehabilitation Services Commission and the Department of Mental 79528  
Retardation and Developmental Disabilities. The Rehabilitation 79529  
Services Commission shall report to the Department of Mental 79530  
Retardation and Developmental Disabilities, as outlined in an 79531  
interagency agreement, on the number and status of mutually 79532  
eligible clients and the status of the funds and expenditures for 79533  
these clients. 79534

VOCATIONAL REHABILITATION/JOB AND FAMILY SERVICES 79535

The foregoing appropriation item 415-405, Vocational 79536  
Rehabilitation/Job and Family Services, shall be used as state 79537  
matching funds to provide vocational rehabilitation services to 79538  
mutually eligible clients between the Rehabilitation Services 79539  
Commission and the Department of Job and Family Services. The 79540  
Rehabilitation Services Commission shall report to the Department 79541  
of Job and Family Services, as outlined in an interagency 79542  
agreement, on the number and status of mutually eligible clients 79543  
and the status of the funds and expenditures for these clients. 79544

ASSISTIVE TECHNOLOGY 79545

The foregoing appropriation item 415-406, Assistive 79546  
Technology, shall be provided to Assistive Technology of Ohio and 79547  
shall be used only to provide grants under that program. No amount 79548  
of the appropriation may be used for administrative costs. 79549

OFFICE FOR PEOPLE WITH BRAIN INJURY 79550

Of the foregoing appropriation item 415-431, Office for 79551  
People with Brain Injury, \$50,000 in each fiscal year shall be 79552  
used for the state match for a federal grant awarded through the 79553  
Traumatic Brain Injury Act, Pub. L. No. 104-166, and up to \$50,000 79554  
in fiscal year 2004 and up to \$50,000 in fiscal year 2005 shall be 79555  
provided to the Brain Injury Trust Fund. The remaining 79556  
appropriation in this item shall be used to plan and coordinate 79557  
head-injury-related services provided by state agencies and other 79558  
government or private entities, to assess the needs for such 79559  
services, and to set priorities in this area. 79560

SERVICES FOR THE ELDERLY 79561

The foregoing appropriation item 415-509, Services for the 79562  
Elderly, shall be used as matching funds for vocational 79563  
rehabilitation services for eligible elderly citizens with a 79564  
disability. 79565

SOCIAL SECURITY REIMBURSEMENT FUNDS 79566

Reimbursement funds received from the Social Security 79567  
Administration, United States Department of Health and Human 79568  
Services, for the costs of providing services and training to 79569  
return disability recipients to gainful employment, shall be used 79570  
in the Social Security Reimbursement Fund (Fund 3L1), as follows: 79571

(A) Appropriation item 415-601, Social Security Personal Care 79572  
Assistance, to provide personal care services in accordance with 79573  
section 3304.41 of the Revised Code; 79574

(B) Appropriation item 415-605, Social Security Community 79575  
Centers for the Deaf, to provide grants to community centers for 79576  
the deaf in Ohio for services to individuals with hearing 79577  
impairments; 79578

(C) Appropriation item 415-607, Social Security 79579

Administration Cost, to provide administrative services needed to 79580  
administer the Social Security reimbursement program; 79581

(D) Appropriation item 415-608, Social Security Special 79582  
Programs/Assistance, to provide vocational rehabilitation services 79583  
to individuals with severe disabilities, who are Social Security 79584  
beneficiaries, to achieve competitive employment. This item also 79585  
includes funds to assist the Personal Care Assistance, Community 79586  
Centers for the Deaf, and Independent Living Programs to pay their 79587  
share of indirect costs as mandated by federal OMB Circular A-87. 79588

(E) Appropriation item 415-610, Social Security Vocational 79589  
Rehabilitation, to provide vocational rehabilitation services to 79590  
older blind individuals with severe disabilities to achieve a 79591  
noncompetitive employment goal. 79592

ADMINISTRATIVE EXPENSES 79593

The foregoing appropriation item 415-606, Administrative 79594  
Expenses, shall be used to support the administrative functions of 79595  
the commission related to the provision of vocational 79596  
rehabilitation, disability determination services, and ancillary 79597  
programs. 79598

INDEPENDENT LIVING COUNCIL 79599

The foregoing appropriation item 415-402, Independent Living 79600  
Council, shall be used to fund the operations of the State 79601  
Independent Living Council. 79602

MENTAL HEALTH SERVICES 79603

The foregoing appropriation item 415-403, Mental Health 79604  
Services, shall be used for the provision of vocational 79605  
rehabilitation services to mutually eligible consumers of the 79606  
Rehabilitation Services Commission and the Department of Mental 79607  
Health. 79608

The Department of Mental Health shall receive a quarterly 79609

report from the Rehabilitation Services Commission stating the 79610  
numbers served, numbers placed in employment, average hourly wage, 79611  
and average hours worked. 79612

INDEPENDENT LIVING SERVICES 79613

The foregoing appropriation items 415-520, Independent Living 79614  
Services, and 415-612, Federal-Independent Living Centers or 79615  
Services, shall be used to support state independent living 79616  
centers or independent living services pursuant to Title VII of 79617  
the Independent Living Services and Centers for Independent Living 79618  
of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 79619  
U.S.C. 796d. 79620

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS 79621

The foregoing appropriation item 415-617, Independent 79622  
Living/Vocational Rehabilitation Programs, shall be used to 79623  
support vocational rehabilitation programs, including, but not 79624  
limited to, Projects with Industry, Training Grants, and Brain 79625  
Injury Grants. 79626

PILOT PROGRAM FOR VOCATIONAL REHABILITATION 79627

During fiscal years 2004 and 2005, the Rehabilitation 79628  
Services Commission may conduct a pilot program to provide 79629  
vocational rehabilitation and related services to entities, 79630  
employers, or individuals that are not eligible for state or 79631  
federally supported services through the commission. The 79632  
commission shall propose fees to be collected from the entities, 79633  
employers, or individuals served by the pilot program for the 79634  
approval of the Controlling Board to support the costs for 79635  
vocational rehabilitation and related services provided under the 79636  
pilot program. Fee revenues collected under the program shall be 79637  
credited to Fund 468 (Third Party Funding). Prior to the 79638  
commencement of services through the pilot program, the 79639  
Rehabilitation Services Commission shall develop a program plan to 79640



be submitted to the Controlling Board. Any plan revisions or 79641  
updates shall be reported to the Controlling Board. During the 79642  
implementation of the pilot program, the Rehabilitation Services 79643  
Commission shall investigate and determine the possibility of 79644  
utilizing this source of revenue to match federal funds. The 79645  
Rehabilitation Services Commission shall evaluate the progress of 79646  
the pilot program and issue a report of its findings to the 79647  
Governor by December 15, 2005. The report shall include a 79648  
recommendation to either continue or discontinue the pilot program 79649  
in the next biennium. 79650

**Section 91. RCB RESPIRATORY CARE BOARD** 79651

General Services Fund Group 79652  
4K9 872-609 Operating Expenses \$ 318,499 \$ 315,481 79653  
TOTAL GSF General Services 79654  
Fund Group \$ 318,499 \$ 315,481 79655  
TOTAL ALL BUDGET FUND GROUPS \$ 318,499 \$ 315,481 79656

**Section 92. REVENUE DISTRIBUTION FUNDS** 79658

Volunteer Firefighters' Dependents Fund 79659  
085 800-900 Volunteer \$ 200,000 \$ 200,000 79660  
Firefighters'  
Dependents Fund  
TOTAL 085 Volunteer Firefighters' 79661  
Dependents Fund \$ 200,000 \$ 200,000 79662  
Agency Fund Group 79663  
062 110-900 Resort Area Excise Tax \$ 500,000 \$ 500,000 79664  
063 110-900 Permissive Tax \$ 1,397,512,400 \$ 1,439,437,700 79665  
Distribution  
067 110-900 School District Income \$ 154,836,700 \$ 161,030,200 79666  
Tax Fund  
4P8 001-698 Cash Management \$ 2,500,000 \$ 2,500,000 79667

Improvement Fund			
608	001-699	Investment Earnings	\$ 174,300,000 \$ 181,300,000 79668
TOTAL AGY Agency Fund Group			\$ 1,729,649,100 \$ 1,784,767,900 79669
Holding Account Redistribution			
R45	110-617	International Fuel Tax	\$ 36,400,000 \$ 37,200,000 79671
Distribution			
TOTAL R45 Holding Account			\$ 36,400,000 \$ 37,200,000 79672
Redistribution Fund			
Revenue Distribution Fund Group			79673
049	038-900	Indigent Drivers	\$ 1,850,000 \$ 1,850,000 79674
Alcohol Treatment			
050	762-900	International	\$ 60,000,000 \$ 60,000,000 79675
Registration Plan			
Distribution			
051	762-901	Auto Registration	\$ 475,000,000 \$ 486,875,000 79676
Distribution			
054	110-900	Local Government	\$ 75,000,000 \$ 75,000,000 79677
Property Tax			
Replacement			
060	110-900	Gasoline Excise Tax	\$ 113,344,700 \$ 115,611,600 79678
Fund			
064	110-900	Local Government	\$ 98,500,000 \$ 98,500,000 79679
Revenue Assistance			
065	110-900	Library/Local	\$ 475,000,000 \$ 475,000,000 79680
Government Support			
Fund			
066	800-900	Undivided Liquor	\$ 13,500,000 \$ 13,500,000 79681
Permit Fund			
068	110-900	State/Local Government	\$ 227,607,000 \$ 232,159,100 79682
Highway Distribution			
Fund			
069	110-900	Local Government Fund	\$ 705,000,000 \$ 705,000,000 79683
082	110-900	Horse Racing Tax	\$ 130,000 \$ 130,000 79684

083 700-900 Ohio Fairs Fund	\$	3,150,000	\$	3,150,000	79685
TOTAL RDF Revenue Distribution					79686
Fund Group	\$	2,248,081,700	\$	2,266,775,700	79687
TOTAL ALL BUDGET FUND GROUPS	\$	4,014,330,800	\$	4,088,943,600	79688
ADDITIONAL APPROPRIATIONS					79689
Appropriation items in this section are to be used for the					79690
purpose of administering and distributing the designated revenue					79691
distributions fund according to the Revised Code. If it is					79692
determined that additional appropriations are necessary, such					79693
amounts are appropriated.					79694
<b>Section 93. SAN BOARD OF SANITARIAN REGISTRATION</b>					79695
General Services Fund Group					79696
4K9 893-609 Operating Expenses	\$	124,892	\$	125,612	79697
TOTAL GSF General Services					79698
Fund Group	\$	124,892	\$	125,612	79699
TOTAL ALL BUDGET FUND GROUPS	\$	124,892	\$	125,612	79700
<b>Section 94. OSB OHIO STATE SCHOOL FOR THE BLIND</b>					79702
General Revenue Fund					79703
GRF 226-100 Personal Services	\$	6,287,483	\$	6,456,616	79704
GRF 226-200 Maintenance	\$	685,256	\$	685,256	79705
GRF 226-300 Equipment	\$	121,355	\$	121,355	79706
TOTAL GRF General Revenue Fund	\$	7,094,094	\$	7,263,227	79707
General Services Fund Group					79708
4H8 226-602 Education Reform	\$	61,476	\$	61,476	79709
Grants					
TOTAL GSF General Services					79710
Fund Group	\$	61,476	\$	61,476	79711
State Special Revenue Fund Group					79712
4M5 226-601 Work Study &	\$	42,919	\$	42,919	79713

Technology Investments

TOTAL SSR State Special Revenue				79714
Fund Group	\$	42,919	\$ 42,919	79715
Federal Special Revenue Fund Group				79716
3P5 226-643 Medicaid Professional	\$	143,600	\$ 143,600	79717
Services Reimbursement				
310 226-626 Coordinating Unit	\$	1,390,000	\$ 1,384,000	79718
TOTAL FED Federal Special				79719
Revenue Fund Group	\$	1,533,600	\$ 1,527,600	79720
TOTAL ALL BUDGET FUND GROUPS	\$	8,732,089	\$ 8,895,222	79721

**Section 95. OSD OHIO STATE SCHOOL FOR THE DEAF** 79723

General Revenue Fund				79724
GRF 221-100 Personal Services	\$	8,071,660	\$ 8,391,704	79725
GRF 221-200 Maintenance	\$	1,012,561	\$ 1,032,813	79726
GRF 221-300 Equipment	\$	269,377	\$ 269,377	79727
TOTAL GRF General Revenue Fund	\$	9,353,598	\$ 9,693,894	79728
General Services Fund Group				79729
4M1 221-602 Education Reform	\$	70,701	\$ 70,701	79730
Grants				
TOTAL GSF General Services				79731
Fund Group	\$	70,701	\$ 70,701	79732
State Special Revenue Fund Group				79733
4M0 221-601 Educational Program	\$	33,188	\$ 33,188	79734
Expenses				79735
5H6 221-609 Even Start Fees &	\$	98,500	\$ 98,500	79736
Gifts				
TOTAL SSR State Special Revenue				79737
Fund Group	\$	131,688	\$ 131,688	79738
Federal Special Revenue Fund Group				79739
3R0 221-684 Medicaid Professional	\$	111,377	\$ 111,377	79740

	Services Reimbursement				79741	
311	221-625	Coordinating Unit	\$	949,899	\$ 974,649	79742
3Y1	221-686	Early Childhood Grant	\$	248,235	\$ 262,275	79743
	TOTAL FED	Federal Special				79744
	Revenue Fund Group		\$	1,309,511	\$ 1,348,301	79745
	TOTAL ALL BUDGET FUND GROUPS		\$	10,865,498	\$ 11,244,584	79746

**Section 96. SFC SCHOOL FACILITIES COMMISSION** 79748

	General Revenue Fund					79749
GRF	230-428	Lease Rental Payments	\$	31,776,500	\$ 31,704,700	79750
GRF	230-908	Common Schools General	\$	106,322,300	\$ 145,989,300	79751
	Obligation Debt					
	Service					
	TOTAL GRF General Revenue Fund		\$	138,098,800	\$ 177,694,000	79752
	Federal Special Revenue Fund Group					79753
3X9	230-601	Federal School	\$	28,214,058	\$ 28,214,058	79754
	Facilities Grant					
	TOTAL FED Federal Special Revenue		\$	28,214,058	\$ 28,214,058	79755
	Fund Group					
	State Special Revenue Fund Group					79756
5E3	230-644	Operating Expenses	\$	7,009,766	\$ 7,009,766	79757
	TOTAL SSR State Special Revenue					79758
	Fund Group		\$	7,009,766	\$ 7,009,766	79759
	TOTAL ALL BUDGET FUND GROUPS		\$	173,322,624	\$ 212,917,824	79760

**Section 96.01. LEASE RENTAL PAYMENTS** 79762

The foregoing appropriation item 230-428, Lease Rental 79763  
 Payments, shall be used to meet all payments at the times they are 79764  
 required to be made during the period from July 1, 2003, to June 79765  
 30, 2005, by the School Facilities Commission pursuant to leases 79766  
 and agreements made under section 3318.26 of the Revised Code, but 79767  
 limited to the aggregate amount of \$63,481,200. Nothing in this 79768

act shall be deemed to contravene the obligation of the state to 79769  
pay, without necessity for further appropriation, from the sources 79770  
pledged thereto, the bond service charges on obligations issued 79771  
pursuant to Chapter 3318. of the Revised Code. 79772

COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE 79773

The foregoing appropriation item 230-908, Common Schools 79774  
General Obligation Debt Service, shall be used to pay all debt 79775  
service and related financing costs at the times they are required 79776  
to be made pursuant to sections 151.01 and 151.03 of the Revised 79777  
Code during the period from July 1, 2003, to June 30, 2005. The 79778  
Office of the Sinking Fund or the Director of Budget and 79779  
Management shall effectuate the required payments by an intrastate 79780  
transfer voucher. 79781

OPERATING EXPENSES 79782

The foregoing appropriation item 230-644, Operating Expenses, 79783  
shall be used by the Ohio School Facilities Commission to carry 79784  
out its responsibilities pursuant to this section and Chapter 79785  
3318. of the Revised Code. 79786

Within ten days after the effective date of this section, or 79787  
as soon as possible thereafter, the Executive Director of the Ohio 79788  
School Facilities Commission shall certify to the Director of 79789  
Budget and Management the amount of cash from interest earnings to 79790  
be transferred from the School Building Assistance Fund (Fund 032) 79791  
or the Public School Building Fund (Fund 021) to the Ohio School 79792  
Facilities Commission Fund (Fund 5E3). 79793

By July 10, 2004, the Executive Director of the Ohio School 79794  
Facilities Commission shall certify to the Director of Budget and 79795  
Management the amount of cash from interest earnings to be 79796  
transferred from the School Building Assistance Fund (Fund 032) or 79797  
the Public School Building Fund (Fund 021) to the Ohio School 79798  
Facilities Commission Fund (Fund 5E3). The amount transferred may 79799

not exceed investment earnings credited to the School Building Assistance Fund (Fund 032) less any amount required to be paid for federal arbitrage rebate purposes.

SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION 79803

At the request of the Executive Director of the Ohio School Facilities Commission, the Director of Budget and Management may cancel encumbrances for school district projects from a previous biennium if the district has not raised its local share of project costs within one year of receiving Controlling Board approval in accordance with section 3318.05 of the Revised Code. The Executive Director of the Ohio School Facilities Commission shall certify the amounts of these canceled encumbrances to the Director of Budget and Management on a quarterly basis. The amounts of the canceled encumbrances are appropriated.

**Section 96.02.** COMMUNITY SCHOOL CLASSROOM FACILITIES LOAN GUARANTEE 79814  
79815

The unencumbered and unallotted balances as of June 30, 2003, in appropriation item 230-602, Community School Loan Guarantee, are hereby reappropriated in fiscal year 2004 to support loan guarantees to community schools under section 3318.50 of the Revised Code. The unencumbered and unallotted balances of the appropriation at the end of fiscal year 2004 are hereby reappropriated in fiscal year 2005 to support loan guarantees to community schools under section 3318.50 of the Revised Code.

**Section 96.02a.** EXTREME ENVIRONMENTAL CONTAMINATION OF SCHOOL FACILITIES 79824  
79825

Notwithstanding any other provision of law to the contrary, the School Facilities Commission may provide assistance under the Exceptional Needs School Facilities Program established in section 3318.37 of the Revised Code to any school district, and not

exclusively to a school district in the lowest fifty per cent of 79830  
adjusted valuation per pupil on the current ranking of school 79831  
districts established pursuant to section 3317.02 of the Revised 79832  
Code, for the purpose of the relocation or replacement of school 79833  
facilities required as a result of extreme environmental 79834  
contamination. 79835

The School Facilities Commission shall contract with an 79836  
independent environmental consultant to conduct a study and to 79837  
report to the commission as to the seriousness of the 79838  
environmental contamination, whether the contamination violates 79839  
applicable state and federal standards, and whether the facilities 79840  
are no longer suitable for use as school facilities. The 79841  
commission then shall make a determination regarding funding for 79842  
the relocation or replacement of the school facilities. If the 79843  
federal government or other public or private entity provides 79844  
funds for restitution of costs incurred by the state or school 79845  
district in the relocation or replacement of the school 79846  
facilities, the school district shall use such funds in excess of 79847  
the school district's share to refund the state for the state's 79848  
contribution to the environmental contamination portion of the 79849  
project. The school district may apply an amount of such 79850  
restitution funds up to an amount equal to the school district's 79851  
portion of the project, as defined by the commission, toward 79852  
paying its portion of that project to reduce the amount of bonds 79853  
the school district otherwise must issue to receive state 79854  
assistance under sections 3318.01 to 3318.20 of the Revised Code. 79855

**Section 96.03.** (A) The Ohio School Facilities Commission may 79856  
commit up to thirty-five million dollars to the Canton City School 79857  
District for construction of a facility described in this section, 79858  
in lieu of a high school that would otherwise be authorized under 79859  
Chapter 3318. of the Revised Code. The commission shall not commit 79860  
funds under this section unless all of the following conditions 79861



are met: 79862

(1) The district has entered into a cooperative agreement 79863  
with a state-assisted technical college. 79864

(2) The district has received an irrevocable commitment of 79865  
additional funding from nonpublic sources. 79866

(3) The facility is intended to serve both secondary and 79867  
postsecondary instructional purposes. 79868

(B) The commission shall enter into an agreement with the 79869  
district for the construction of the facility authorized under 79870  
this section that is separate from and in addition to the 79871  
agreement required for the district's participation in the 79872  
Classroom Facilities Assistance Program under section 3318.08 of 79873  
the Revised Code. Notwithstanding that section and sections 79874  
3318.03, 3318.04, and 3318.083 of the Revised Code, the additional 79875  
agreement shall provide, but not be limited to, the following: 79876

(1) The commission shall not have any oversight 79877  
responsibilities over the construction of the facility. 79878

(2) The facility need not comply with the specifications for 79879  
plans and materials for high schools adopted by the commission. 79880

(3) The commission may decrease the basic project cost that 79881  
would otherwise be calculated for a high school under Chapter 79882  
3318. of the Revised Code. 79883

(4) The state shall not share in any increases in the basic 79884  
project cost for the facility above the amount authorized under 79885  
this section. 79886

All other provisions of Chapter 3318. of the Revised Code 79887  
apply to the approval and construction of a facility authorized 79888  
under this section. 79889

The state funds committed to the facility authorized by this 79890  
section shall be part of the total amount the state commits to the 79891

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.

<b>Section 97. NET OHIO SCHOOLNET COMMISSION</b>				79896
General Revenue Fund				79897
GRF 228-404	Operating Expenses	\$ 5,961,208	\$ 5,961,208	79898
GRF 228-406	Technical and Instructional Professional Development	\$ 7,691,831	\$ 7,691,831	79899
GRF 228-539	Education Technology	\$ 6,989,315	\$ 6,989,315	79900
Total GRF General Revenue Fund				79901
General Services Fund Group				79902
5D4 228-640	Conference/Special Purpose Expenses	\$ 1,350,000	\$ 1,350,000	79903
TOTAL GSF General Services Fund Group				79904
State Special Revenue Fund Group				79906
4W9 228-630	Ohio SchoolNet Telecommunity Fund	\$ 400,000	\$ 400,000	79907
4X1 228-634	Distance Learning	\$ 1,750,000	\$ 1,750,000	79908
5T3 228-605	Gates Foundation Grants	\$ 1,194,908	\$ 1,194,908	79909
TOTAL SSR State Special Revenue Fund Group				79910
Federal Special Revenue Fund Group				79912
3X8 228-604	Individuals With Disabilities Education Act	\$ 1,500,000	\$ 1,500,000	79913
TOTAL FED Federal Special Revenue				79914

Fund Group	\$	1,500,000	\$	1,500,000	79915
TOTAL ALL BUDGET FUND GROUPS	\$	26,837,262	\$	26,837,262	79916

**Section 97.01.** TECHNICAL AND INSTRUCTIONAL PROFESSIONAL 79918  
DEVELOPMENT 79919

The foregoing appropriation item 228-406, Technical and 79920  
Instructional Professional Development, shall be used by the Ohio 79921  
SchoolNet Commission to make grants or provide services to 79922  
qualifying schools, including the State School for the Blind and 79923  
the Ohio School for the Deaf, for the provision of hardware, 79924  
software, telecommunications services, and staff development to 79925  
support educational uses of technology in the classroom. 79926

The Ohio SchoolNet Commission shall consider the professional 79927  
development needs associated with the OhioReads Program when 79928  
making funding allocations and program decisions. 79929

Of the foregoing appropriation \$1,260,000 in each fiscal year 79930  
shall be used by the Ohio Educational Telecommunications Network 79931  
Commission, with the advice of the Ohio SchoolNet Commission, to 79932  
make grants for research, development and production of 79933  
interactive instructional programming series and teleconferences 79934  
to support the SchoolNet Commission. Up to \$55,000 of this amount 79935  
shall be used in each fiscal year to provide for the 79936  
administration of these activities by the Ohio Educational 79937  
Telecommunications Network Commission. The programming shall be 79938  
targeted to the needs of the poorest two hundred school districts 79939  
as determined by the district's adjusted valuation per pupil as 79940  
defined in section 3317.0213 of the Revised Code. 79941

Of the foregoing appropriation item 228-406, Technical and 79942  
Instructional Professional Development, \$818,322 in each fiscal 79943  
year shall be used by the INFOhio Network, with the advice of the 79944  
Ohio SchoolNet Commission, to support the provision of electronic 79945  
resources to all public schools with preference given to 79946

elementary schools. Consideration shall be given by the Commission 79947  
to coordinating the allocation of these moneys with the efforts of 79948  
OhioLINK and the Ohio Public Information Network. 79949

Of the foregoing appropriation item 228-406, Technical and 79950  
Instructional Professional Development, \$300,000 in each fiscal 79951  
year shall be used by the JASON project, with the advice of the 79952  
Ohio SchoolNet Commission, to provide statewide access and a 75 79953  
per cent subsidy for statewide licensing of JASON content for 79954  
90,000 middle school students statewide, and professional 79955  
development for teachers participating in the program. 79956

The remaining appropriation allocated in appropriation item 79957  
228-406, Technical and Instructional Professional Development, 79958  
shall be used by the Ohio SchoolNet Commission for professional 79959  
development for teachers and administrators for the use of 79960  
educational technology. The commission may make grants to provide 79961  
technical assistance and professional development on the use of 79962  
educational technology to school districts. 79963

Eligible recipients of grants include regional training 79964  
centers, county offices of education, data collection sites, 79965  
instructional technology centers, institutions of higher 79966  
education, public television stations, special education resource 79967  
centers, area media centers, or other nonprofit educational 79968  
organizations. Services provided through these grants may include 79969  
use of private entities subcontracting through the grant 79970  
recipient. 79971

Grants shall be made to entities on a contractual basis with 79972  
the Ohio SchoolNet Commission. Contracts shall include provisions 79973  
that demonstrate how services will benefit technology use in the 79974  
schools, and in particular will support Ohio SchoolNet efforts to 79975  
support technology in the schools. Contracts shall specify the 79976  
scope of assistance being offered and the potential number of 79977  
professionals who will be served. Contracting entities may be 79978

awarded more than one grant at a time. 79979

Grants shall be awarded in a manner consistent with the goals 79980  
of Ohio SchoolNet. Special emphasis in the award of grants shall 79981  
be placed on collaborative efforts among service providers. 79982

Application for grants from this appropriation in 79983  
appropriation item 228-406, Technical and Instructional 79984  
Professional Development, shall be consistent with a school 79985  
district's technology plan that shall meet the minimum 79986  
specifications for school district technology plans as prescribed 79987  
by the Ohio SchoolNet Commission. Funds allocated through these 79988  
grants may be combined with funds received through other state or 79989  
federal grants for technology so long as the school district's 79990  
technology plan specifies the use of these funds. 79991

EDUCATION TECHNOLOGY 79992

The foregoing appropriation item 228-539, Education 79993  
Technology, shall be used to provide funding to suppliers of 79994  
information services to school districts for the provision of 79995  
hardware, software, and staff development in support of 79996  
educational uses of technology in the classroom as prescribed by 79997  
the State Plan for Technology pursuant to section 3301.07 of the 79998  
Revised Code, and to support assistive technology for children and 79999  
youth with disabilities. 80000

Of the foregoing appropriation item 228-539, Education 80001  
Technology, up to \$1,946,000 in each fiscal year shall be used by 80002  
the Ohio SchoolNet Commission to link all public K-12 classrooms 80003  
to each other and the Internet, and to provide access to voice, 80004  
video, and data educational resources for students and teachers 80005  
through the OneNet Ohio Program. 80006

Up to \$4,403,778 in each fiscal year shall be used by the 80007  
Ohio SchoolNet Commission to contract with instructional 80008  
television, and \$639,537 in each fiscal year shall be used by the 80009

commission to contract with education media centers to provide 80010  
Ohio schools with instructional resources and services. 80011

Resources may include, but not be limited to, the following: 80012  
pre-recorded video materials (including videotape, laser discs, 80013  
and CD-ROM discs); computer software for student use or student 80014  
access to electronic communication, databases, spreadsheet, and 80015  
word processing capability; live student courses or courses 80016  
delivered electronically; automated media systems; and 80017  
instructional and professional development materials for teachers. 80018  
The commission shall cooperate with education technology agencies 80019  
in the acquisition, development, and delivery of such educational 80020  
resources to ensure high-quality and educational soundness at the 80021  
lowest possible cost. Delivery of such resources may utilize a 80022  
variety of technologies, with preference given to a high-speed 80023  
integrated information network that can transport video, voice, 80024  
data, and graphics simultaneously. 80025

Services shall include presentations and technical assistance 80026  
that will help students and teachers integrate educational 80027  
materials that support curriculum objectives, match specific 80028  
learning styles, and are appropriate for individual interests and 80029  
ability levels. 80030

Such instructional resources and services shall be made 80031  
available for purchase by chartered nonpublic schools or by public 80032  
school districts for the benefit of pupils attending chartered 80033  
nonpublic schools. 80034

TELECOMMUNITY 80035

The foregoing appropriation item 228-630, Ohio SchoolNet 80036  
Telecommunity Fund, shall be distributed by the Ohio SchoolNet 80037  
Commission on a grant basis to eligible school districts to 80038  
establish "distance learning" through interactive video 80039  
technologies in the school district. Per agreements with eight 80040

Ohio local telephone companies: ALLTEL Ohio, CENTURY Telephone of 80041  
Ohio, Chillicothe Telephone Company, Cincinnati Bell Telephone 80042  
Company, Orwell Telephone Company, Sprint North Central Telephone, 80043  
VERIZON, and Western Reserve Telephone Company, school districts 80044  
are eligible for funds if they are within one of the listed 80045  
telephone company service areas. Funds to administer the program 80046  
shall be expended by the commission up to the amount specified in 80047  
agreements with the listed telephone companies. 80048

Within 30 days after the effective date of this section, the 80049  
Director of Budget and Management shall transfer to Fund 4W9 in 80050  
the State Special Revenue Fund Group any investment earnings from 80051  
moneys paid to the Ohio SchoolNet Commission by any telephone 80052  
company as part of any settlement agreement between the listed 80053  
companies and the Public Utilities Commission in fiscal years 1996 80054  
and beyond. 80055

DISTANCE LEARNING 80056

Appropriation item 228-634, Distance Learning, shall be 80057  
distributed by the Ohio SchoolNet Commission on a grant basis to 80058  
eligible school districts to establish "distance learning" in the 80059  
school district. Per the agreement with Ameritech, school 80060  
districts are eligible for funds if they are within an Ameritech 80061  
service area. Funds to administer the program shall be expended by 80062  
the commission up to the amount specified in the agreement with 80063  
Ameritech. 80064

Within thirty days after the effective date of this section, 80065  
the Director of Budget and Management shall transfer to fund 4X1 80066  
in the State Special Revenue Fund Group any investment earnings 80067  
from moneys paid to the office or to the SchoolNet Commission by 80068  
any telephone company as part of a settlement agreement between 80069  
the company and the Public Utilities Commission in fiscal year 80070  
1995. 80071

GATES FOUNDATION GRANTS				80072
The foregoing appropriation item 228-605, Gates Foundation				80073
Grants, shall be used by the Ohio SchoolNet Commission to provide				80074
professional development to school district principals,				80075
superintendents, and other administrative staff for the use of				80076
education technology. The appropriation is made possible through a				80077
grant from the Bill and Melinda Gates foundation.				80078
<b>Section 98. SOS SECRETARY OF STATE</b>				80079
General Revenue Fund				80080
GRF 050-321 Operating Expenses	\$	2,750,000	\$ 2,750,000	80081
GRF 050-403 Election Statistics	\$	110,570	\$ 110,570	80082
GRF 050-407 Pollworkers Training	\$	295,742	\$ 295,742	80083
GRF 050-409 Litigation	\$	4,949	\$ 4,949	80084
Expenditures				
TOTAL GRF General Revenue Fund	\$	3,161,261	\$ 3,161,261	80085
General Services Fund Group				80086
4S8 050-610 Board of Voting	\$	7,200	\$ 7,200	80087
Machine Examiners				
412 050-609 Notary Commission	\$	178,124	\$ 185,249	80088
413 050-601 Information Systems	\$	163,418	\$ 169,955	80089
414 050-602 Citizen Education Fund	\$	72,800	\$ 75,712	80090
TOTAL General Services Fund Group	\$	421,542	\$ 438,116	80091
Federal Special Revenue Fund Group				80092
3X4 050-612 Ohio Cntr/Law Related	\$	41,000	\$ 41,000	80093
Educ Grant				
TOTAL FED Federal Special Revenue				80094
Fund Group	\$	41,000	\$ 41,000	80095
State Special Revenue Fund Group				80096
5N9 050-607 Technology	\$	124,582	\$ 129,565	80097
Improvements				



599 050-603 Business Services	\$	13,889,462	\$	14,241,966	80098
Operating Expenses					
TOTAL SSR State Special Revenue					80099
Fund Group	\$	14,014,044	\$	14,371,531	80100
Holding Account Redistribution Fund Group					80101
R01 050-605 Uniform Commercial	\$	65,000	\$	65,000	80102
Code Refunds					
R02 050-606 Corporate/Business	\$	100,000	\$	100,000	80103
Filing Refunds					
TOTAL 090 Holding Account					80104
Redistribution Fund Group	\$	165,000	\$	165,000	80105
TOTAL ALL BUDGET FUND GROUPS	\$	17,802,847	\$	18,176,908	80106
BOARD OF VOTING MACHINE EXAMINERS					80107
The foregoing appropriation item 050-610, Board of Voting					80108
Machine Examiners, shall be used to pay for the services and					80109
expenses of the members of the Board of Voting Machine Examiners,					80110
and for other expenses that are authorized to be paid from the					80111
Board of Voting Machine Examiners Fund, which is created in					80112
section 3506.05 of the Revised Code. Moneys not used shall be					80113
returned to the person or entity submitting the equipment for					80114
examination. If it is determined that additional appropriations					80115
are necessary, such amounts are appropriated.					80116
HOLDING ACCOUNT REDISTRIBUTION GROUP					80117
The foregoing appropriation items 050-605 and 050-606,					80118
Holding Account Redistribution Fund Group, shall be used to hold					80119
revenues until they are directed to the appropriate accounts or					80120
until they are refunded. If it is determined that additional					80121
appropriations are necessary, such amounts are appropriated.					80122
Section 99. SEN THE OHIO SENATE					80123
General Revenue Fund					80124

GRF 020-321 Operating Expenses	\$	10,887,655	\$	11,432,037	80125
TOTAL GRF General Revenue Fund	\$	10,887,655	\$	11,432,037	80126
General Services Fund Group					80127
102 020-602 Senate Reimbursement	\$	422,881	\$	444,025	80128
409 020-601 Miscellaneous Sales	\$	32,529	\$	34,155	80129
TOTAL GSF General Services					80130
Fund Group	\$	455,410	\$	478,180	80131
TOTAL ALL BUDGET FUND GROUPS	\$	11,343,065	\$	11,910,217	80132

**Section 100. CSF COMMISSIONERS OF THE SINKING FUND** 80134

Debt Service Fund Group					80135
071 155-901 Highway Obligations	\$	35,536,300	\$	10,450,000	80136
Bond Retirement Fund					
072 155-902 Highway Capital	\$	153,559,600	\$	173,238,200	80137
Improvements Bond					
Retirement Fund					
073 155-903 Natural Resources Bond	\$	23,808,300	\$	26,914,300	80138
Retirement					
074 155-904 Conservation Projects	\$	9,743,500	\$	11,235,700	80139
Bond Service Fund					
076 155-906 Coal Research and	\$	7,231,200	\$	9,185,100	80140
Development Bond					
Retirement Fund					
077 155-907 State Capital	\$	156,974,400	\$	152,069,700	80141
Improvements Bond					
Retirement Fund					
078 155-908 Common Schools Bond	\$	106,322,300	\$	145,989,300	80142
Retirement Fund					
079 155-909 Higher Education Bond	\$	97,668,000	\$	130,967,600	80143
Retirement Fund					
TOTAL DSF Debt Service Fund Group	\$	590,843,600	\$	660,049,900	80144
TOTAL ALL BUDGET FUND GROUPS	\$	590,843,600	\$	660,049,900	80145

ADDITIONAL APPROPRIATIONS				80146
Appropriation items in this section are for the purpose of				80147
paying debt service and financing costs on bonds or notes of the				80148
state issued pursuant to the Ohio Constitution and acts of the				80149
General Assembly. If it is determined that additional				80150
appropriations are necessary, such amounts are appropriated.				80151
<b>Section 101. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY &amp;</b>				80152
AUDIOLOGY				80153
General Services Fund Group				80154
4K9 886-609 Operating Expenses	\$	390,966	\$ 403,554	80155
TOTAL GSF General Services				80156
Fund Group	\$	390,966	\$ 403,554	80157
TOTAL ALL BUDGET FUND GROUPS	\$	390,966	\$ 403,554	80158
<b>Section 102. BTA BOARD OF TAX APPEALS</b>				80160
General Revenue Fund				80161
GRF 116-321 Operating Expenses	\$	2,171,760	\$ 2,171,760	80162
TOTAL GRF General Revenue Fund	\$	2,171,760	\$ 2,171,760	80163
TOTAL ALL BUDGET FUND GROUPS	\$	2,171,760	\$ 2,171,760	80164
<b>Section 103. TAX DEPARTMENT OF TAXATION</b>				80166
General Revenue Fund				80167
GRF 110-321 Operating Expenses	\$	92,501,007	\$ 94,267,788	80168
GRF 110-412 Child Support	\$	74,215	\$ 74,215	80169
Administration				
GRF 110-901 Property Tax	\$	434,650,000	\$ 462,640,000	80170
Allocation - Taxation				
GRF 110-906 Tangible Tax Exemption	\$	26,590,000	\$ 25,090,000	80171
- Taxation				
TOTAL GRF General Revenue Fund	\$	553,815,222	\$ 582,072,003	80172

Agency Fund Group				80173
095 110-901 Municipal Income Tax	\$	12,000,000	\$ 12,000,000	80174
425 110-635 Tax Refunds	\$	1,296,756,200	\$ 1,337,119,600	80175
TOTAL AGY Agency Fund Group	\$	1,308,756,200	\$ 1,349,119,600	80176
General Services Fund Group				80177
433 110-602 Tape File Account	\$	96,165	\$ 96,165	80178
TOTAL GSF General Services				80179
Fund Group	\$	96,165	\$ 96,165	80180
State Special Revenue Fund Group				80181
4C6 110-616 International	\$	706,855	\$ 706,855	80182
Registration Plan				
4R6 110-610 Tire Tax	\$	65,000	\$ 65,000	80183
Administration				
435 110-607 Local Tax	\$	13,600,000	\$ 13,700,000	80184
Administration				
436 110-608 Motor Vehicle Audit	\$	1,350,000	\$ 1,350,000	80185
437 110-606 Litter Tax and Natural	\$	625,232	\$ 625,232	80186
Resource Tax				
Administration				
438 110-609 School District Income	\$	2,599,999	\$ 2,599,999	80187
Tax				
5N5 110-605 Municipal Income Tax	\$	650,000	\$ 650,000	80188
Administration				
5N6 110-618 Kilowatt Hour Tax	\$	85,000	\$ 85,000	80189
Administration				
5V7 110-622 Motor Fuel Tax	\$	3,734,036	\$ 3,833,091	80190
Administration				
5V8 110-623 Property Tax	\$	11,569,719	\$ 11,938,362	80191
Administration				
5W4 110-625 Centralized Tax Filing	\$	3,000,000	\$ 3,000,000	80192
and Payment				
639 110-614 Cigarette Tax	\$	168,925	\$ 168,925	80193

	Enforcement			
642	110-613	Ohio Political Party	\$ 600,000	\$ 600,000 80194
	Distributions			
688	110-615	Local Excise Tax	\$ 300,000	\$ 300,000 80195
	Administration			
TOTAL SSR State Special Revenue				80196
Fund Group			\$ 39,054,766	\$ 39,622,464 80197
Federal Special Revenue Fund Group				80198
3J6	110-601	Motor Fuel Compliance	\$ 33,300	\$ 25,000 80199
TOTAL FED Federal Special Revenue				80200
Fund Group			\$ 33,300	\$ 25,000 80201
Holding Account Redistribution Fund Group				80202
R10	110-611	Tax Distributions	\$ 50,000	\$ 50,000 80203
R11	110-612	Miscellaneous Income	\$ 50,000	\$ 50,000 80204
	Tax Receipts			
TOTAL 090 Holding Account				80205
Redistribution Fund Group			\$ 100,000	\$ 100,000 80206
TOTAL ALL BUDGET FUND GROUPS				\$ 1,901,855,653 \$ 1,971,035,232 80207
LITTER CONTROL TAX ADMINISTRATION FUND				80208
Notwithstanding section 5733.12 of the Revised Code, during				80209
the period from July 1, 2003, to June 30, 2004, the amount of				80210
\$625,232, and during the period from July 1, 2004, to June 30,				80211
2005, the amount of \$625,232, received by the Tax Commissioner				80212
under Chapter 5733. of the Revised Code, shall be credited to the				80213
Litter Control Tax Administration Fund (Fund 437).				80214
CENTRALIZED TAX FILING AND PAYMENT FUND				80215
The Director of Budget and Management pursuant to a plan				80216
submitted by the Tax Commissioner, or as otherwise determined by				80217
the Director of Budget and Management, shall set a schedule to				80218
transfer cash from the General Revenue Fund to the credit of the				80219
Centralized Tax Filing and Payment Fund. Such transfers of cash				80220

shall not exceed \$3,000,000 in any fiscal year.	80221
INTERNATIONAL REGISTRATION PLAN AUDIT	80222
The foregoing appropriation item 110-616, International	80223
Registration Plan, shall be used pursuant to section 5703.12 of	80224
the Revised Code for audits of persons with vehicles registered	80225
under the International Registration Plan.	80226
HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX	80227
EXEMPTION	80228
The foregoing appropriation item 110-901, Property Tax	80229
Allocation - Taxation, is appropriated to pay for the state's	80230
costs incurred due to the Homestead Exemption, the Manufactured	80231
Home Property Tax Rollback, and the Property Tax Rollback. The Tax	80232
Commissioner shall distribute these funds directly to the	80233
appropriate local taxing districts of the state, except for school	80234
districts, notwithstanding the provisions in sections 321.24 and	80235
323.156 of the Revised Code, which provide for payment of the	80236
Homestead Exemption, the Manufactured Home Property Tax Rollback,	80237
and Property Tax Rollback by the Tax Commissioner to the	80238
appropriate county treasurer and the subsequent redistribution of	80239
these funds to the appropriate local taxing districts by the	80240
county auditor.	80241
The foregoing appropriation item 110-906, Tangible Tax	80242
Exemption - Taxation, is appropriated to pay for the state's costs	80243
incurred due to the tangible personal property tax exemption	80244
required by division (C)(3) of section 5709.01 of the Revised	80245
Code. The Tax Commissioner shall distribute to each county	80246
treasurer the total amount certified by the county treasurer	80247
pursuant to section 319.311 of the Revised Code for all local	80248
taxing districts located in the county except for school	80249
districts, notwithstanding the provision in section 319.311 of the	80250
Revised Code which provides for payment of the \$10,000 tangible	80251

personal property tax exemption by the Tax Commissioner to the 80252  
appropriate county treasurer for all local taxing districts 80253  
located in the county including school districts. Pursuant to 80254  
division (G) of section 321.24 of the Revised Code, the county 80255  
auditor shall distribute the amount paid by the Tax Commissioner 80256  
among the appropriate local taxing districts except for school 80257  
districts. 80258

Upon receipt of these amounts, each local taxing district 80259  
shall distribute the amount among the proper funds as if it had 80260  
been paid as real or tangible personal property taxes. Payments 80261  
for the costs of administration shall continue to be paid to the 80262  
county treasurer and county auditor as provided for in sections 80263  
319.54, 321.26, and 323.156 of the Revised Code. 80264

Any sums, in addition to the amounts specifically 80265  
appropriated in appropriation items 110-901, Property Tax 80266  
Allocation - Taxation, for the Homestead Exemption, the 80267  
Manufactured Home Property Tax Rollback, and the Property Tax 80268  
Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, 80269  
for the \$10,000 tangible personal property tax exemption payments, 80270  
which are determined to be necessary for these purposes, are 80271  
hereby appropriated. 80272

**MUNICIPAL INCOME TAX** 80273

The foregoing appropriation item 110-901, Municipal Income 80274  
Tax, shall be used to make payments to municipal corporations as 80275  
provided in section 5745.05 of the Revised Code. If it is 80276  
determined that additional appropriations are necessary to make 80277  
such payments, such amounts are hereby appropriated. 80278

**TAX REFUNDS** 80279

The foregoing appropriation item 110-635, Tax Refunds, shall 80280  
be used to pay refunds as provided in section 5703.052 of the 80281  
Revised Code. If it is determined that additional appropriations 80282

are necessary, such amounts are appropriated.				80283
<b>Section 104. DOT DEPARTMENT OF TRANSPORTATION</b>				80284
Transportation Modes				80285
General Revenue Fund				80286
GRF 775-451	Public Transportation	\$ 18,875,595	\$ 19,525,595	80287
	- State			
GRF 776-465	Ohio Rail Development	\$ 3,116,889	\$ 2,936,056	80288
	Commission			
GRF 776-466	Railroad	\$ 500,000	\$ 840,000	80289
	Crossing/Grade			
	Separation			
GRF 777-471	Airport Improvements -	\$ 1,908,495	\$ 1,908,495	80290
	State			
GRF 777-473	Rickenbacker Lease	\$ 591,600	\$ 591,500	80291
	Payments - State			
TOTAL GRF	General Revenue Fund	\$ 24,992,579	\$ 25,801,646	80292
Federal Special Revenue Fund Group				80293
3B9 776-662	Rail Transportation -	\$ 50,000	\$ 50,000	80294
	Federal			
TOTAL FSR	Federal Special Revenue			80295
Fund Group		\$ 50,000	\$ 50,000	80296
State Special Revenue Fund Group				80297
4N4 776-663	Panhandle Lease	\$ 770,000	\$ 770,000	80298
	Reserve Payments			
4N4 776-664	Rail Transportation -	\$ 1,919,500	\$ 2,111,500	80299
	Other			
TOTAL SSR	State Special Revenue			80300
Fund Group		\$ 2,689,500	\$ 2,881,500	80301
TOTAL ALL BUDGET FUND GROUPS		\$ 27,732,079	\$ 28,733,146	80302
ELDERLY AND DISABLED FARE ASSISTANCE				80303



Of the foregoing appropriation item 775-451, Public Transportation - State, up to \$4,012,780 in fiscal year 2004 and \$5,015,975 in fiscal year 2005 may be used to make grants to county transit boards, regional transit authorities, regional transit commissions, counties, municipal corporations, and private nonprofit organizations that operate or will operate public transportation systems, for the purpose of reducing the transit fares of elderly or disabled persons. Pursuant to division (B) of section 5501.07 of the Revised Code, the Director of Transportation shall establish criteria for the distribution of these grants.

AVIATION LEASE PAYMENTS

The foregoing appropriation item 777-473, Rickenbacker Lease Payments - State, shall be used to meet scheduled payments for the Rickenbacker Port Authority. The Director of Transportation shall certify to the Director of Budget and Management any appropriations in appropriation item 777-473, Rickenbacker Lease Payments - State, that are not needed to make lease payments for the Rickenbacker Port Authority. Notwithstanding section 127.14 of the Revised Code, the amount certified may be transferred by the Director of Budget and Management to appropriation item 777-471, Airport Improvements - State.

**Section 105. TOS TREASURER OF STATE**

General Revenue Fund  
GRF 090-321 Operating Expenses \$ 9,329,082 \$ 9,619,082  
GRF 090-401 Office of the Sinking Fund \$ 554,868 \$ 554,868  
GRF 090-402 Continuing Education \$ 463,585 \$ 463,585  
GRF 090-524 Police and Fire Disability Pension \$ 35,000 \$ 30,000

GRF 090-534	Police & Fire Ad Hoc	\$	225,000	\$	230,000	80334
	Cost					
	of Living					80335
GRF 090-544	Police and Fire State	\$	1,200,000	\$	1,200,000	80336
	Contribution					80337
GRF 090-554	Police and Fire	\$	1,320,000	\$	1,260,000	80338
	Survivor					
	Benefits					80339
GRF 090-575	Police and Fire Death	\$	24,000,000	\$	25,000,000	80340
	Benefits					80341
TOTAL GRF General Revenue Fund		\$	37,127,535	\$	38,357,535	80342
Agency Fund Group						80343
425 090-635	Tax Refunds	\$	31,000,000	\$	31,000,000	80344
TOTAL Agency Fund Group		\$	31,000,000	\$	31,000,000	80345
General Services Fund Group						80346
4E9 090-603	Securities Lending	\$	2,400,000	\$	2,100,000	80347
	Income					
577 090-605	Investment Pool	\$	600,000	\$	550,000	80348
	Reimbursement					80349
605 090-609	Treasurer of State	\$	600,000	\$	700,000	80350
	Administrative Fund					80351
TOTAL GSF General Services						80352
Fund Group		\$	3,600,000	\$	3,350,000	80353
State Special Revenue Fund Group						80354
5C5 090-602	County Treasurer	\$	175,000	\$	135,000	80355
	Education					
TOTAL SSR State Special Revenue						80356
Fund Group		\$	175,000	\$	135,000	80357
TOTAL ALL BUDGET FUND GROUPS		\$	71,902,535	\$	72,842,535	80358

**Section 105.01. OFFICE OF THE SINKING FUND** 80360

The foregoing appropriation item 090-401, Office of the 80361

Sinking Fund, shall be used for financing and other costs incurred 80362  
by or on behalf of the Commissioners of the Sinking Fund, the Ohio 80363  
Public Facilities Commission or its secretary, or the Treasurer of 80364  
State, with respect to State of Ohio general obligation bonds or 80365  
notes, including, but not limited to, printing, advertising, 80366  
delivery, rating fees and the procurement of ratings, professional 80367  
publications, membership in professional organizations, and 80368  
services referred to in division (D) of section 151.01 of the 80369  
Revised Code. The General Revenue Fund shall be reimbursed for 80370  
such costs by intrastate transfer voucher pursuant to a 80371  
certification by the Office of the Sinking Fund of the actual 80372  
amounts used. The amounts necessary to make such reimbursements 80373  
are appropriated from the general obligation bond retirement funds 80374  
created by the Constitution and laws to the extent such costs are 80375  
incurred. 80376

POLICE AND FIRE DEATH BENEFIT FUND 80377

The foregoing appropriation item 090-575, Police and Fire 80378  
Death Benefits, shall be disbursed annually by the Treasurer of 80379  
State at the beginning of each fiscal year to the Board of 80380  
Trustees of the Ohio Police and Fire Pension Fund. By the 80381  
twentieth day of June of each year, the Board of Trustees of the 80382  
Ohio Police and Fire Pension Fund shall certify to the Treasurer 80383  
of State the amount disbursed in the current fiscal year to make 80384  
the payments required by section 742.63 of the Revised Code and 80385  
shall return to the Treasurer of State moneys received from this 80386  
item but not disbursed. 80387

The foregoing appropriation item 090-635, Tax Refunds, shall 80388  
be used to pay refunds as provided in section 5703.052 of the 80389  
Revised Code. If it is determined by the Director of Budget and 80390  
Management that additional amounts are necessary, such amounts are 80391  
appropriated. 80392

<b>Section 106.</b>	UST PETROLEUM UNDERGROUND STORAGE TANK RELEASE				80393
	COMPENSATION BOARD				80394
	State Special Revenue Fund Group				80395
691	810-632 PUSTRCB Staff	\$	1,075,158	\$	1,075,158
	TOTAL SSR State Special Revenue				80397
	Fund Group	\$	1,075,158	\$	1,075,158
	TOTAL ALL BUDGET FUND GROUPS	\$	1,075,158	\$	1,075,158
<b>Section 107.</b>	TTA OHIO TUITION TRUST AUTHORITY				80401
	State Special Revenue Fund Group				80402
5P3	095-602 Variable Savings Plan	\$	1,639,747	\$	1,690,213
645	095-601 Operating Expenses	\$	3,570,614	\$	3,689,101
	TOTAL SSR State Special Revenue				80405
	Fund Group	\$	5,210,361	\$	5,379,314
	TOTAL ALL BUDGET FUND GROUPS	\$	5,210,361	\$	5,379,314
<b>Section 108.</b>	OVH OHIO VETERANS' HOME				80409
	General Revenue Fund				80410
GRF	430-100 Personal Services	\$	20,664,311	\$	18,877,112
GRF	430-200 Maintenance	\$	6,912,553	\$	6,546,928
	TOTAL GRF General Revenue Fund	\$	25,576,864	\$	25,424,040
	General Services Fund Group				80414
484	430-603 Rental and Service	\$	709,737	\$	709,737
	Revenue				
	TOTAL GSF General Services Fund	\$	709,737	\$	709,737
	Group				
	Federal Special Revenue Fund Group				80417
3L2	430-601 Federal Grants	\$	12,220,340	\$	14,696,578
	TOTAL FED Federal Special Revenue				80419
	Fund Group	\$	12,220,340	\$	14,696,578

State Special Revenue Fund Group				80421
4E2 430-602 Veterans Home	\$	6,719,938	\$ 7,769,277	80422
Operating				
604 430-604 Veterans Home	\$	770,096	\$ 770,096	80423
Improvement				
TOTAL SSR State Special Revenue				80424
Fund Group	\$	7,490,034	\$ 8,539,373	80425
TOTAL ALL BUDGET FUND GROUPS	\$	47,996,975	\$ 49,369,728	80426
<b>Section 108.01. VET VETERANS' ORGANIZATIONS</b>				80428
General Revenue Fund				80429
VAP AMERICAN EX-PRISONERS OF WAR				80430
GRF 743-501 State Support	\$	25,030	\$ 25,030	80431
VAN ARMY AND NAVY UNION, USA, INC.				80432
GRF 746-501 State Support	\$	55,012	\$ 55,012	80433
VKW KOREAN WAR VETERANS				80434
GRF 747-501 State Support	\$	53,953	\$ 49,453	80435
VJW JEWISH WAR VETERANS				80436
GRF 748-501 State Support	\$	29,715	\$ 29,715	80437
VCW CATHOLIC WAR VETERANS				80438
GRF 749-501 State Support	\$	57,990	\$ 57,990	80439
VPH MILITARY ORDER OF THE PURPLE HEART				80440
GRF 750-501 State Support	\$	56,377	\$ 56,377	80441
VVV VIETNAM VETERANS OF AMERICA				80442
GRF 751-501 State Support	\$	185,954	\$ 185,954	80443
VAL AMERICAN LEGION OF OHIO				80444
GRF 752-501 State Support	\$	252,328	\$ 252,328	80445
VII AMVETS				80446
GRF 753-501 State Support	\$	237,919	\$ 237,919	80447
VAV DISABLED AMERICAN VETERANS				80448
GRF 754-501 State Support	\$	166,308	\$ 166,308	80449
VMC MARINE CORPS LEAGUE				80450

GRF 756-501 State Support	\$	85,972	\$	85,972	80451
V37 37TH DIVISION AEF VETERANS' ASSOCIATION					80452
GRF 757-501 State Support	\$	5,946	\$	5,946	80453
VFW VETERANS OF FOREIGN WARS					80454
GRF 758-501 State Support	\$	196,615	\$	196,615	80455
TOTAL GRF General Revenue Fund	\$	1,409,119	\$	1,404,619	80456
TOTAL ALL BUDGET FUND GROUPS	\$	1,409,119	\$	1,404,619	80457

RELEASE OF FUNDS 80458

The foregoing appropriation items 743-501, 746-501, 747-501, 80459  
748-501, 749-501, 750-501, 751-501, 752-501, 753-501, 754-501, 80460  
756-501, 757-501, and 758-501, State Support, shall be released 80461  
upon approval by the Director of Budget and Management. 80462

50th ANNIVERSARY COMMEMORATION OF THE KOREAN WAR 80463

Of the foregoing appropriation item 747-501, State Support, 80464  
Korean War Veterans, up to \$4,500 in fiscal year 2004 shall be 80465  
used for activities to commemorate the 50th anniversary of the 80466  
Korean War. Commemorative activities shall be carried out by the 80467  
Korean War Veterans Organization with input from the Governor's 80468  
Office of Veterans Affairs and the other veterans organizations 80469  
representing Korean War veterans. 80470

AMERICAN EX-PRISONERS OF WAR 80471

The American Ex-Prisoners of War shall be permitted to share 80472  
an office with the Veterans of World War I. 80473

CENTRAL OHIO UNITED SERVICES ORGANIZATION 80474

Of the foregoing appropriation item 751-501, State Support, 80475  
Vietnam Veterans of America, \$50,000 in each fiscal year shall be 80476  
used to support the activities of the Central Ohio USO. 80477

VETERANS SERVICE COMMISSION EDUCATION 80478

Of the foregoing appropriation item 753-501, State Support, 80479  
AMVETS, up to \$20,000 in each fiscal year may be used to provide 80480

moneys to the Association of County Veterans Service Commissioners 80481  
to reimburse its member county veterans service commissions for 80482  
costs incurred in carrying out educational and outreach duties 80483  
required under divisions (E) and (F) of section 5901.03 of the 80484  
Revised Code. The Director of Budget and Management shall release 80485  
these funds upon the presentation of an itemized receipt from the 80486  
association for reasonable and appropriate expenses incurred while 80487  
performing these duties. The association shall establish uniform 80488  
procedures for reimbursing member commissions. 80489

**Section 109. DVM STATE VETERINARY MEDICAL BOARD 80490**

General Services Fund Group 80491  
4K9 888-609 Operating Expenses \$ 444,208 \$ 453,043 80492  
TOTAL GSF General Services 80493  
Fund Group \$ 444,208 \$ 453,043 80494  
TOTAL ALL BUDGET FUND GROUPS \$ 444,208 \$ 453,043 80495

**Section 111. DYS DEPARTMENT OF YOUTH SERVICES 80497**

General Revenue Fund 80498  
GRF 470-401 RECLAIM Ohio \$ 164,637,416 \$ 167,697,792 80499  
GRF 470-412 Lease Rental Payments \$ 21,110,100 \$ 21,110,000 80500  
GRF 470-510 Youth Services \$ 18,558,587 \$ 18,558,587 80501  
GRF 472-321 Parole Operations \$ 15,347,154 \$ 14,841,872 80502  
GRF 477-321 Administrative \$ 14,427,323 \$ 14,166,008 80503  
Operations  
TOTAL GRF General Revenue Fund \$ 234,080,580 \$ 236,374,259 80504  
General Services Fund Group 80505  
175 470-613 Education \$ 8,817,598 \$ 8,817,598 80506  
Reimbursement  
4A2 470-602 Child Support \$ 311,302 \$ 320,641 80507  
4G6 470-605 General Operational \$ 10,000 \$ 10,000 80508  
Funds

**Sub. H. B. No. 95**  
**As Pending in the Senate Finance and Financial Institutions Committee**

479	470-609	Employee Food Service	\$	118,454	\$	122,008	80509
523	470-621	Wellness Program	\$	197,778	\$	197,778	80510
TOTAL GSF General Services							80511
Fund Group			\$	9,455,132	\$	9,468,025	80512
Federal Special Revenue Fund Group							80513
3V5	470-604	Juvenile Justice/Delinquency Prevention	\$	4,091,100	\$	4,254,744	80514
3W0	470-611	Federal Juvenile Programs FFY 02	\$	4,500,000	\$	0	80515
3Z8	470-625	Federal Juvenile Programs FFY 04	\$	7,828,899	\$	4,500,000	80516
3Z9	470-626	Federal Juvenile Programs FFY 05	\$	0	\$	7,828,899	80517
321	470-601	Education	\$	1,491,587	\$	1,555,147	80518
321	470-603	Juvenile Justice Prevention	\$	1,558,138	\$	1,558,138	80519
321	470-606	Nutrition	\$	2,389,587	\$	2,485,170	80520
321	470-610	Rehabilitation Programs	\$	585,000	\$	585,000	80521
321	470-614	Title IV-E Reimbursements	\$	4,776,002	\$	4,919,282	80522
321	470-617	Americorps Programs	\$	460,000	\$	460,000	80523
TOTAL FED Federal Special Revenue							80524
Fund Group			\$	27,680,313	\$	28,146,380	80525
State Special Revenue Fund Group							80526
147	470-612	Vocational Education	\$	2,523,653	\$	2,630,612	80527
4W3	470-618	Help Me Grow	\$	11,587	\$	11,587	80528
5J7	470-623	Residential Treatment Services	\$	500,000	\$	500,000	80529
TOTAL SSR State Special Revenue							80530
Fund Group			\$	3,035,240	\$	3,142,199	80531





The foregoing appropriation item 470-613, Education 80562  
Reimbursement, shall be used to fund the operating expenses of 80563  
providing educational services to youth supervised by the 80564  
Department of Youth Services. Operating expenses include, but are 80565  
not limited to, teachers' salaries, maintenance costs, and 80566  
educational equipment. This appropriation item shall not be used 80567  
for capital expenses. 80568

FEDERAL JUVENILE JUSTICE PROGRAM TRANSFER FROM THE OFFICE OF 80569  
CRIMINAL JUSTICE SERVICES TO THE DEPARTMENT OF YOUTH SERVICES 80570

Any business relating to the funds associated with the Office 80571  
of Criminal Justice Services' appropriation item 196-602, Criminal 80572  
Justice Federal Programs, commenced but not completed by the 80573  
Office of Criminal Justice Services or its director shall be 80574  
completed by the Department of Youth Services or its director in 80575  
the same manner, and with the same effect, as if completed by the 80576  
Office of Criminal Justice Services or its director. No 80577  
validation, cure, right, privilege, remedy, obligation, or 80578  
liability is lost or impaired by reason of the transfer and shall 80579  
be administered by the Department of Youth Services. 80580

Any action or proceeding against the Office of Criminal 80581  
Justice Services pending on the effective date of this section 80582  
shall not be affected by the transfer of responsibility to the 80583  
Department of Youth Services, and shall be prosecuted or defended 80584  
in the name of the Department of Youth Services or its director. 80585  
In all such actions and proceedings, the Department of Youth 80586  
Services or its director upon application of the court shall be 80587  
substituted as party. 80588

**Section 112.** EXPENDITURES AND APPROPRIATION INCREASES 80589  
APPROVED BY THE CONTROLLING BOARD 80590

Any money that the Controlling Board approves for expenditure 80591

or any increase in appropriation authority that the Controlling Board approves pursuant to the provisions of sections 127.14, 131.35, and 131.39 of the Revised Code or any other provision of law is appropriated for the period ending June 30, 2005.

**Section 113. PERSONAL SERVICE EXPENSES**

Unless otherwise prohibited by law, any appropriation from which personal service expenses are paid shall bear the employer's share of public employees' retirement, workers' compensation, disabled workers' relief, and all group insurance programs; the costs of centralized accounting, centralized payroll processing, and related personnel reports and services; the cost of the Office of Collective Bargaining; the cost of the Personnel Board of Review; the cost of the Employee Assistance Program; the cost of the affirmative action and equal employment opportunity programs administered by the Department of Administrative Services; the costs of interagency information management infrastructure; and the cost of administering the state employee merit system as required by section 124.07 of the Revised Code. These costs shall be determined in conformity with appropriate sections of law and paid in accordance with procedures specified by the Office of Budget and Management. Expenditures from appropriation item 070-601, Public Audit Expense - Local Government, in Fund 422 may be exempted from the requirements of this section.

**Section 114. REISSUANCE OF VOIDED WARRANTS**

In order to provide funds for the reissuance of voided warrants pursuant to section 117.47 of the Revised Code, there is appropriated, out of moneys in the state treasury from the fund credited as provided in section 117.47 of the Revised Code, that amount sufficient to pay such warrants when approved by the Office of Budget and Management.

**Section 115. \* CAPITAL PROJECT SETTLEMENTS** 80622

This section specifies an additional and supplemental 80623  
procedure to provide for payments of judgments and settlements if 80624  
the Director of Budget and Management determines, pursuant to 80625  
division (C)(4) of section 2743.19 of the Revised Code, that 80626  
sufficient unencumbered moneys do not exist in the particular 80627  
appropriation to pay the amount of a final judgment rendered 80628  
against the state or a state agency, including the settlement of a 80629  
claim approved by a court, in an action upon and arising out of a 80630  
contractual obligation for the construction or improvement of a 80631  
capital facility if the costs under the contract were payable in 80632  
whole or in part from a state capital projects appropriation. In 80633  
such a case, the director may either proceed pursuant to division 80634  
(C)(4) of section 2743.19 of the Revised Code, or apply to the 80635  
Controlling Board to increase an appropriation or create an 80636  
appropriation out of any unencumbered moneys in the state treasury 80637  
to the credit of the capital projects fund from which the initial 80638  
state appropriation was made. The Controlling Board may approve or 80639  
disapprove the application as submitted or modified. The amount of 80640  
an increase in appropriation or new appropriation specified in an 80641  
application approved by the Controlling Board is hereby 80642  
appropriated from the applicable capital projects fund and made 80643  
available for the payment of the judgment or settlement. 80644

If the director does not make the application authorized by 80645  
this section or the Controlling Board disapproves the application, 80646  
and the director does not make application pursuant to division 80647  
(C)(4) of section 2743.19 of the Revised Code, the director shall 80648  
for the purpose of making that payment make a request to the 80649  
General Assembly as provided for in division (C)(5) of that 80650  
section. 80651

**Section 116.** INCOME TAX DISTRIBUTION TO COUNTIES 80652

There are hereby appropriated out of any moneys in the state 80653  
treasury to the credit of the General Revenue Fund, which are not 80654  
otherwise appropriated, funds sufficient to make any payment 80655  
required by division (B)(2) of section 5747.03 of the Revised 80656  
Code. 80657

**Section 117.** SATISFACTION OF JUDGMENTS AND SETTLEMENTS 80658  
AGAINST THE STATE 80659

Any appropriation may be used for the purpose of satisfying 80660  
judgments or settlements in connection with civil actions against 80661  
the state in federal court not barred by sovereign immunity or the 80662  
Eleventh Amendment to the Constitution of the United States, or 80663  
for the purpose of satisfying judgments, settlements, or 80664  
administrative awards ordered or approved by the Court of Claims 80665  
in connection with civil actions against the state, pursuant to 80666  
section 2743.15, 2743.19, or 2743.191 of the Revised Code. This 80667  
authorization does not apply to appropriations to be applied to or 80668  
used for payment of guarantees by or on behalf of the state, for 80669  
or relating to lease payments or debt service on bonds, notes, or 80670  
similar obligations and those from the Sports Facilities Building 80671  
Fund (Fund 024), the Highway Safety Building Fund (Fund 025), the 80672  
Administrative Building Fund (Fund 026), the Adult Correctional 80673  
Building Fund (Fund 027), the Juvenile Correctional Building Fund 80674  
(Fund 028), the Transportation Building Fund (Fund 029), the Arts 80675  
Facilities Building Fund (Fund 030), the Natural Resources 80676  
Projects Fund (Fund 031), the School Building Program Assistance 80677  
Fund (Fund 032), the Mental Health Facilities Improvement Fund 80678  
(Fund 033), the Higher Education Improvement Fund (Fund 034), the 80679  
Parks and Recreation Improvement Fund (Fund 035), the State 80680  
Capital Improvements Fund (Fund 038), the Highway Obligation Fund 80681

(Fund 041), the Coal Research/Development Fund (Fund 046), and any 80682  
other fund into which proceeds of obligations are deposited. 80683  
Nothing contained in this section is intended to subject the state 80684  
to suit in any forum in which it is not otherwise subject to suit, 80685  
nor is it intended to waive or compromise any defense or right 80686  
available to the state in any suit against it. 80687

**Section 118. \* UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS** 80688

The maximum amounts that may be assessed against nuclear 80689  
electric utilities in accordance with division (B)(2) of section 80690  
4937.05 of the Revised Code are as follows: 80691

	FY 2004	FY 2005	
Department of Agriculture			80692
Fund 4E4 Utility Radiological Safety	\$73,059	\$73,059	80693
Department of Health			80694
Fund 610 Radiation Emergency Response	\$923,315	\$923,315	80695
Environmental Protection Agency			80696
Fund 644 ER Radiological Safety	\$281,424	\$286,114	80697
Emergency Management Agency			80698
Fund 657 Utility Radiological Safety	\$1,200,000	\$1,260,000	80699

**Section 119. UNCLAIMED FUNDS TRANSFER** 80700

Notwithstanding division (A) of section 169.05 of the Revised 80701  
Code, prior to June 30, 2004, upon the request of the Director of 80702  
Budget and Management, the Director of Commerce shall transfer to 80703  
the General Revenue Fund up to \$25,000,000 of the unclaimed funds 80704  
that have been reported by the holder of unclaimed funds as 80705  
provided by section 169.05 of the Revised Code, irrespective of 80706  
the allocation of the unclaimed funds under that section. 80707  
80708

**Section 120. GRF TRANSFER TO FUND 5N4, OAKS PROJECT** 80709  
**IMPLEMENTATION** 80710

On July 1, 2003, or as soon thereafter as possible, the 80711  
Director of Budget and Management shall transfer up to \$1,250,000 80712  
in cash from the General Revenue Fund to Fund 5N4, OAKS Project 80713  
Implementation. On July 1, 2004, or as soon thereafter as 80714  
possible, the Director of Budget and Management shall transfer up 80715  
to \$1,250,000 in cash from the General Revenue Fund to Fund 5N4, 80716  
OAKS Project Implementation. 80717

**Section 120a. FUND 4K9 TRANSFER TO GRF** 80718

On July 31, 2003, or as soon thereafter as possible, the 80719  
Director of Budget and Management shall transfer \$2,000,000 in 80720  
cash from Fund 4K9, Occupational Licensing and Regulatory Fund, to 80721  
the General Revenue Fund. 80722

**Section 121. CORPORATE AND UCC FILING FUND TRANSFER TO GRF** 80723

Not later than the first day of June in each year of the 80724  
biennium, the Director of Budget and Management shall transfer 80725  
\$1,000,000 from the Corporate and Uniform Commercial Code Filing 80726  
Fund to the General Revenue Fund. 80727

**Section 122. GENERAL OBLIGATION DEBT SERVICE PAYMENTS** 80728

Certain appropriations are in this act for the purpose of 80729  
paying debt service and financing costs on general obligation 80730  
bonds or notes of the state issued pursuant to the Ohio 80731  
Constitution and acts of the General Assembly. If it is determined 80732  
that additional appropriations are necessary for this purpose, 80733  
such amounts are appropriated. 80734

**Section 123. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF** 80735  
**STATE** 80736

Certain appropriations are in this act for the purpose of 80737  
making lease payments pursuant to leases and agreements relating 80738

to bonds or notes issued by the Ohio Building Authority or the 80739  
Treasurer of State or, previously, by the Ohio Public Facilities 80740  
Commission, pursuant to the Ohio Constitution and acts of the 80741  
General Assembly. If it is determined that additional 80742  
appropriations are necessary for this purpose, such amounts are 80743  
appropriated. 80744

**Section 124. AUTHORIZATION FOR TREASURER OF STATE AND OBM TO 80745**  
**EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 80746**

The Office of Budget and Management shall initiate and 80747  
process disbursements from general obligation and lease rental 80748  
payment appropriation items during the period from July 1, 2003, 80749  
to June 30, 2005, relating to bonds or notes issued under Sections 80750  
2i, 2k, 2l, 2m, 2n, 2o, and 15 of Article VIII, Ohio Constitution, 80751  
and Chapters 151., 154., and 3318. of the Revised Code. 80752  
Disbursements shall be made upon certification by the Treasurer of 80753  
State of the dates and amounts due on those dates. 80754

**Section 125. STATE AND LOCAL REBATE AUTHORIZATION 80755**

There is hereby appropriated, from those funds designated by 80756  
or pursuant to the applicable proceedings authorizing the issuance 80757  
of state obligations, amounts computed at the time to represent 80758  
the portion of investment income to be rebated or amounts in lieu 80759  
of or in addition to any rebate amount to be paid to the federal 80760  
government in order to maintain the exclusion from gross income 80761  
for federal income tax purposes of interest on those state 80762  
obligations pursuant to section 148(f) of the Internal Revenue 80763  
Code. 80764

Rebate payments shall be approved and vouchered by the Office 80765  
of Budget and Management. 80766

**Section 126. APPROPRIATIONS RELATED TO CASH TRANSFERS AND 80767**



REESTABLISHMENT OF ENCUMBRANCES	80768
Any cash transferred by the Director of Budget and Management	80769
as provided by section 126.15 of the Revised Code is appropriated.	80770
Any amounts necessary to reestablish appropriations or	80771
encumbrances as provided in section 126.15 of the Revised Code are	80772
appropriated.	80773
<b>Section 127. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT</b>	80774
Pursuant to the plan for compliance with the Federal Cash	80775
Management Improvement Act required by section 131.36 of the	80776
Revised Code, the Director of Budget and Management is authorized	80777
to cancel and reestablish all or parts of encumbrances in like	80778
amounts within the funds identified by the plan. The amounts	80779
necessary to reestablish all or parts of encumbrances are	80780
appropriated.	80781
<b>Section 128. STATEWIDE INDIRECT COST RECOVERY</b>	80782
Whenever the Director of Budget and Management determines	80783
that an appropriation made to a state agency from a fund of the	80784
state is insufficient to provide for the recovery of statewide	80785
indirect costs pursuant to section 126.12 of the Revised Code, the	80786
amount required for such purpose is appropriated from the	80787
available receipts of such fund.	80788
<b>Section 129. GRF TRANSFERS ON BEHALF OF THE STATEWIDE INDIRECT COST ALLOCATION PLAN</b>	80789
The total transfers made from the General Revenue Fund by the	80791
Director of Budget and Management pursuant to this section shall	80792
not exceed the amounts transferred into the General Revenue Fund	80793
pursuant to division (B) of section 126.12 of the Revised Code.	80794
A director of an agency may certify to the Director of Budget	80795
and Management the amount of expenses not allowed to be included	80796

in the Statewide Indirect Cost Allocation plan pursuant to federal 80797  
regulations, from any fund included in the Statewide Indirect Cost 80798  
Allocation plan, prepared as required by section 126.12 of the 80799  
Revised Code. 80800

Upon determining that no alternative source of funding is 80801  
available to pay for such expenses, the Director of Budget and 80802  
Management may transfer from the General Revenue Fund into the 80803  
fund for which the certification is made, up to the amount of the 80804  
certification. The director of the agency receiving such funds 80805  
shall include, as part of the next budget submission prepared 80806  
pursuant to section 126.02 of the Revised Code, a request for 80807  
funding for such activities from an alternative source such that 80808  
further federal disallowances would not be required. 80809

**Section 130. REAPPROPRIATION OF UNEXPENDED ENCUMBERED 80810**  
**BALANCES OF OPERATING APPROPRIATIONS 80811**

An unexpended balance of an operating appropriation or 80812  
reappropriation that a state agency lawfully encumbered prior to 80813  
the close of a fiscal year is reappropriated on the first day of 80814  
July of the following fiscal year from the fund from which it was 80815  
originally appropriated or reappropriated for the following period 80816  
and shall remain available only for the purpose of discharging the 80817  
encumbrance: 80818

(A) For an encumbrance for personal services, maintenance, 80819  
equipment, or items for resale, other than an encumbrance for an 80820  
item of special order manufacture not available on term contract 80821  
or in the open market or for reclamation of land or oil and gas 80822  
wells for a period of not more than five months from the end of 80823  
the fiscal year; 80824

(B) For an encumbrance for an item of special order 80825  
manufacture not available on term contract or in the open market, 80826  
for a period of not more than five months from the end of the 80827

fiscal year or, with the written approval of the Director of Budget and Management, for a period of not more than twelve months from the end of the fiscal year;

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

(D) For an encumbrance for any other expense, for such period as the director approves, provided such period does not exceed two years.

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

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

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

reappropriated for the applicable period specified in division (C) 80859  
or (D) of this section and shall remain available only for the 80860  
purpose of discharging the encumbrance. 80861

If the Controlling Board approved a purchase, that approval 80862  
remains in effect as long as the appropriation used to make that 80863  
purchase remains encumbered. 80864

**Section 131. FEDERAL GOVERNMENT INTEREST REQUIREMENTS** 80865

Notwithstanding any provision of law to the contrary, on or 80866  
before the first day of September of each fiscal year, the 80867  
Director of Budget and Management, in order to reduce the payment 80868  
of adjustments to the federal government, as determined by the 80869  
plan prepared pursuant to division (A) of section 126.12 of the 80870  
Revised Code, may designate such funds as the director considers 80871  
necessary to retain their own interest earnings. 80872

**Section 131.01.** That Sections 11 and 11.04 of Am. Sub. H.B. 80873  
87 of the 125th General Assembly be amended to read as follows: 80874

**Sec. 11. DOT DEPARTMENT OF TRANSPORTATION** 80875

FUND	TITLE		FY 2004	FY 2005	
	Transportation Planning and Research				80877
	Highway Operating Fund Group				80878
002 771-411	Planning and Research	\$	14,548,950	\$	15,070,100
	- State				80879
002 771-412	Planning and Research	\$	35,193,300	\$	35,644,900
	- Federal				80880
	TOTAL HOF Highway Operating				80881
	Fund Group	\$	49,742,250	\$	50,715,000
	TOTAL ALL BUDGET FUND GROUPS -				80883
	Transportation Planning				80884
	and Research	\$	49,742,250	\$	50,715,000

		Highway Construction			80886
		Highway Operating Fund Group			80887
002	772-421	Highway Construction - State	\$ 485,577,430	\$ 442,367,300	80888
002	772-422	Highway Construction - Federal	\$ 762,964,700	\$ 766,001,700	80889
002	772-424	Highway Construction - Other	\$ 70,000,000	\$ 51,000,000	80890
212	770-005	Infrastructure Debt Service - Federal	\$ 72,064,200	\$ 78,696,100	80891
212	772-423	Infrastructure Lease Payments - Federal	\$ 12,537,800	\$ 12,537,300	80892
212	772-426	Highway Infrastructure Bank - Federal	\$ 2,740,000	\$ 2,620,000	80893
212	772-427	Highway Infrastructure Bank - State	\$ 11,000,000	\$ 11,000,000	80894
		TOTAL HOF Highway Operating Fund Group	\$ 1,416,884,130	\$ 1,364,222,400	80895
		Highway Capital Improvement Fund Group			80897
042	772-723	Highway Construction - Bonds	\$ 220,000,000	\$ 220,000,000	80898
		TOTAL 042 Highway Capital Improvement Fund Group	\$ 220,000,000	\$ 220,000,000	80899
		Infrastructure Bank Obligations Fund Group			80901
045	772-428	Highway Infrastructure Bank - Bonds	\$ 40,000,000	\$ 40,000,000	80902
		TOTAL 045 Infrastructure Bank Obligations Fund Group	\$ 40,000,000	\$ 40,000,000	80903
		TOTAL ALL BUDGET FUND GROUPS - Highway Construction	\$ 1,678,384,130	\$ 1,627,222,400	80904
		Highway Maintenance			80905
					80906
					80907

Highway Operating Fund Group				80908
002 773-431 Highway Maintenance -	\$	394,605,100	\$	413,082,600
State				80909
TOTAL HOF Highway Operating				80910
Fund Group	\$	394,605,100	\$	413,082,600
TOTAL ALL BUDGET FUND GROUPS -				80912
Highway Maintenance	\$	394,605,100	\$	413,082,600
Public Transportation				80914
Highway Operating Fund Group				80915
002 775-452 Public Transportation	\$	27,000,000	\$	27,000,000
- Federal				80916
002 775-454 Public Transportation	\$	1,500,000	\$	1,500,000
- Other				80917
002 775-459 Elderly and Disabled	\$	4,230,000	\$	4,230,000
Special Equipment -				80918
Federal				
TOTAL HOF Highway Operating				80919
Fund Group	\$	32,730,000	\$	32,730,000
TOTAL ALL BUDGET FUND GROUPS -				80921
Public Transportation	\$	32,730,000	\$	32,730,000
Rail Transportation				80923
Highway Operating Fund Group				80924
002 776-462 Grade Crossings -	\$	15,000,000	\$	15,000,000
Federal				80925
TOTAL HOF Highway Operating				80926
Fund Group	\$	15,000,000	\$	15,000,000
<del>State Special Revenue Fund Group</del>				80928
<del>4A3 776-665 Railroad Crossing</del>	<del>\$</del>	<del>1,000,000</del>	<del>\$</del>	<del>0</del>
<del>Safety Devices</del>				80929
<del>TOTAL SSR State Special Revenue</del>	<del>\$</del>	<del>1,000,000</del>	<del>\$</del>	<del>0</del>
<del>Fund Group</del>				80930
TOTAL ALL BUDGET FUND GROUPS -				80931

Rail Transportation	\$	<del>16,000,000</del>	\$	15,000,000	80932
		<u>15,000,000</u>			80933
Aviation					80934
Highway Operating Fund Group					80935
002 777-472 Airport Improvements -	\$	405,000	\$	405,000	80936
Federal					
002 777-475 Aviation	\$	4,064,700	\$	4,139,000	80937
Administration					
TOTAL HOF Highway Operating					80938
Fund Group	\$	4,469,700	\$	4,544,000	80939
TOTAL ALL BUDGET FUND GROUPS -					80940
Aviation	\$	4,469,700	\$	4,544,000	80941
Administration					80942
State Special Revenue Fund Group					80943
4T5 770-609 Administration	\$	5,000	\$	5,000	80944
Memorial Fund					
TOTAL SSR State Special Revenue					80945
Fund Group	\$	5,000	\$	5,000	80946
Highway Operating Fund Group					80947
002 779-491 Administration - State	\$	116,449,900	\$	121,986,500	80948
TOTAL HOF Highway Operating					80949
Fund Group	\$	116,449,900	\$	121,986,500	80950
TOTAL ALL BUDGET FUND GROUPS -					80951
Administration	\$	116,454,900	\$	121,991,500	80952
Debt Service					80953
Highway Operating Fund Group					80954
002 770-003 Administration - State	\$	13,802,600	\$	13,395,900	80955
- Debt Service					
TOTAL HOF Highway Operating					80956
Fund Group	\$	13,802,600	\$	13,395,900	80957
TOTAL ALL BUDGET FUND GROUPS -					80958
Debt Service	\$	13,802,600	\$	13,395,900	80959

TOTAL Department of Transportation			80960
TOTAL HOF Highway Operating			80961
Fund Group	\$ 2,043,683,680	\$ 2,015,676,400	80962
TOTAL 042 Highway Capital			80963
Improvement Fund Group	\$ 220,000,000	\$ 220,000,000	80964
TOTAL 045 Infrastructure Bank			80965
Obligations Fund Group	\$ 40,000,000	\$ 40,000,000	80966
TOTAL SSR State Special Revenue			80967
Fund Group	\$ <del>1,005,000</del>	\$ 5,000	80968
	<u>5,000</u>		80969
TOTAL ALL BUDGET FUND GROUPS	\$ <del>2,304,688,680</del>	\$ 2,275,681,400	80970
	<u>2,303,688,680</u>		80971

**Sec. 11.04. PUBLIC ACCESS ROADS FOR STATE FACILITIES** 80973

Of the foregoing appropriation item 772-421, Highway Construction - State, \$3,145,500 is to be used each fiscal year during the 2003-2005 biennium by the Department of Transportation for the construction, reconstruction, or maintenance of public access roads, including support features, to and within state facilities owned or operated by the Department of Natural Resources, as requested by the Director of Natural Resources. 80974-80980

Notwithstanding section 5511.06 of the Revised Code, of the foregoing appropriation item 772-421, Highway Construction - State, \$2,228,000 in each fiscal year of the 2003-2005 biennium shall be used by the Department of Transportation for the construction, reconstruction, or maintenance of park drives or park roads within the boundaries of metropolitan parks. 80981-80986

Included in the foregoing appropriation item 772-421, Highway Construction - State, the department may perform related road work on behalf of the Ohio Expositions Commission at the state fairgrounds, including reconstruction or maintenance of public access roads, including support features, to and within the 80987-80991



facilities as requested by the commission and approved by the 80992  
Director of Transportation. 80993

LIQUIDATION OF UNFORESEEN LIABILITIES 80994

Any appropriation made to the Department of Transportation, 80995  
Highway Operating Fund, not otherwise restricted by law, is 80996  
available to liquidate unforeseen liabilities arising from 80997  
contractual agreements of prior years when the prior year 80998  
encumbrance is insufficient. 80999

~~RUMBLE STRIPS AT RAILROAD CROSSINGS~~ 81000

~~Of the foregoing appropriation item 776-665, Railroad 81001  
Crossing Safety Devices, \$1,000,000 in fiscal year 2004 shall be 81002  
used by the Department of Transportation to fund competitive 81003  
grants to political subdivisions for the cost of putting rumble 81004  
strips at active railroad crossings without gates or lights. The 81005  
maximum amount of a competitive grant is \$50,000 for any single 81006  
crossing. Each political subdivision with jurisdiction over a 81007  
crossing may apply to the Department for a competitive grant for 81008  
the costs of putting rumble strips at crossings. Those political 81009  
subdivisions awarded grants shall install the rumble strips by 81010  
December 1, 2004. Those political subdivisions awarded such grants 81011  
shall not use the moneys as matching funds for any other state 81012  
rail safety programs. 81013~~

~~If rumble strips are not appropriate for a crossing, the 81014  
Department may allow the political subdivision which is awarded 81015  
the grant to use the funding for a safety device or technology 81016  
more appropriate for the crossing. 81017~~

~~The Department shall notify each political subdivision with 81018  
jurisdiction over a crossing of the requirements of this section 81019  
that funding is available for rumble strips at crossings and for 81020  
other rail crossing safety improvements. The Department also shall 81021  
notify associations representing political subdivisions of the 81022~~

~~availability of the funding.~~ 81023

~~The Department shall spend no more than five per cent of the 81024  
appropriation item on Department administrative expenses.~~ 81025

~~The Department shall issue a report on or before June 30, 81026  
2005, describing the activities carried out by the Department to 81027  
comply with the provisions of this section. The report shall 81028  
include the number of crossings at which rumble strip installation 81029  
was completed, the cost of each installation to date, the number 81030  
of active crossings without gates or lights that still do not have 81031  
rumble strips, and a geographic breakdown of where the crossings 81032  
are that have and have not yet received rumble strips.~~ 81033

~~All appropriations in Fund 4A3, appropriation item 776-665, 81034  
Railroad Crossing Safety Devices, remaining unencumbered on June 81035  
30, 2004, are hereby reappropriated for the same purpose in fiscal 81036  
year 2005. The Department shall report all such appropriations to 81037  
the Controlling Board.~~ 81038

**Section 131.02.** That existing Sections 11 and 11.04 of Am. 81039  
Sub. H.B. 87 of the 125th General Assembly are hereby repealed. 81040

**Section 131.03.** That Section 13.05 of Am. Sub. H.B. 87 of the 81041  
125th General Assembly be amended to read as follows: 81042

**Sec. 13.05. EMERGENCY MANAGEMENT** 81043

Federal Special Revenue Fund Group 81044

3N5 763-644 U.S. DOE Agreement	\$	266,000	\$	275,000	81045
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329 763-645 Individual/Family	\$	303,504	\$	303,504	81046
Grant - Fed					

337 763-609 Federal Disaster	\$	<del>5,000,000</del>	\$	3,000,000	81047
Relief					

23,000,000 81048

339 763-647 Emergency Management	\$	<del>129,622,000</del>	\$	<del>129,622,000</del>	81049
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Assistance and Training			<u>111,622,000</u>	<u>111,622,000</u>	81050
TOTAL FED Federal Special					81051
Revenue Fund Group	\$	135,191,504	\$	<del>133,200,504</del>	81052
				<u>115,200,504</u>	81053
General Services Fund Group					81054
4V3 763-662 EMA Service and Reimbursement	\$	696,446	\$	696,446	81055
533 763-601 State Disaster Relief	\$	7,500,000	\$	7,500,000	81056
TOTAL GSF General Services					81057
Fund Group	\$	8,196,446	\$	8,196,446	81058
State Special Revenue Fund Group					81059
657 763-652 Utility Radiological Safety	\$	1,200,000	\$	1,260,000	81060
681 763-653 SARA Title III HAZMAT Planning	\$	264,510	\$	271,510	81061
TOTAL SSR State Special Revenue					81062
Fund Group	\$	1,464,510	\$	1,531,510	81063
TOTAL ALL BUDGET FUND GROUPS -					81064
Emergency Management	\$	144,852,460	\$	<del>142,928,460</del>	81065
				<u>124,928,460</u>	81066
SARA TITLE III HAZMAT PLANNING					81067
The SARA Title III HAZMAT Planning Fund (Fund 681) shall					81068
receive grant funds from the Emergency Response Commission to					81069
implement the Emergency Management Agency's responsibilities under					81070
Chapter 3750. of the Revised Code.					81071
STATE DISASTER RELIEF					81072
The foregoing appropriation item 763-601, State Disaster					81073
Relief, may accept transfers of cash and appropriations from					81074
Controlling Board appropriation items to reimburse eligible local					81075

governments and private nonprofit organizations for costs related 81076  
to disasters that have been declared by local governments or the 81077  
Governor. The Ohio Emergency Management Agency shall publish and 81078  
make available an application packet outlining eligible items and 81079  
application procedures for entities requesting state disaster 81080  
relief. 81081

Individuals may be eligible for reimbursement of costs 81082  
related to disasters that have been declared by the Governor and 81083  
the Small Business Administration. The funding in appropriation 81084  
item 763-601, State Disaster Relief, shall be used in accordance 81085  
with the principles of the federal Individual and Family Grant 81086  
Program, which provides grants to households that have been 81087  
affected by a disaster to replace basic living items. The Ohio 81088  
Emergency Management Agency shall publish and make available an 81089  
application procedure for individuals requesting assistance under 81090  
the state Individual Assistance Program. 81091

**EMA SERVICE AND REIMBURSEMENT FUND 81092**

On July 1, 2003, or as soon as possible thereafter, the 81093  
Director of Budget and Management shall transfer the cash balances 81094  
in the EMA Utility Payment Fund (Fund 4Y0) and the Salvage and 81095  
Exchange-EMA Fund (Fund 4Y1) to the EMA Service and Reimbursement 81096  
Fund (Fund 4V3), created in section 5502.39 of the Revised Code. 81097  
Upon the completion of the transfer, notwithstanding any other 81098  
provision of law to the contrary, the EMA Utility Payment Fund 81099  
(Fund 4Y0) and the Salvage and Exchange-EMA Fund (Fund 4Y1) are 81100  
abolished. The director shall cancel any existing encumbrances 81101  
against appropriation items 763-654, EMA Utility Payment, and 81102  
763-655, Salvage and Exchange-EMA, and reestablish them against 81103  
appropriation item 763-662, EMA Service and Reimbursement. The 81104  
amounts of the reestablished encumbrances are hereby appropriated. 81105

**Section 131.04.** That existing Section 13.05 of Am. Sub. H.B. 81106

87 of the 125th General Assembly is hereby repealed. 81107

**Section 131.05.** That Sections 1.09 and 35.03 of H.B. 675 of 81108  
the 124th General Assembly be amended to read as follows: 81109

**Sec. 1.09.** Sections 1.07 and 1.08 of ~~this act~~ H.B. 675 of the 81110  
124th General Assembly take effect ~~July~~ January 1, 2003 2004. 81111

**Sec. 35.03.** Section 5739.031 of the Revised Code takes effect 81112  
~~July 1, 2003~~ January 1, 2004. 81113

**Section 131.06.** That existing Sections 1.09 and 35.03 of H.B. 81114  
675 of the 124th General Assembly are hereby repealed. 81115

**Section 131.07.** The amendment by this act of Sections 1.09 81116  
and 35.03 of H.B. 675 of the 124th General Assembly provides for 81117  
or is essential to the implementation of a tax levy. Therefore, 81118  
under Ohio Constitution, Article II, Section 1d, the amendment is 81119  
not subject to the referendum and goes into immediate effect when 81120  
this act becomes law. 81121

**Section 131E.** That Sections 18.03 and 18.04 of H.B. 675 of 81122  
the 124th General Assembly be amended to read as follows: 81123

Appropriations

**Sec. 18.03.** DMH DEPARTMENT OF MENTAL HEALTH 81124

CAP-479	Community Assistance Projects	\$	<del>3,912,500</del>	81125
			<u>3,662,500</u>	

CAP-906	Campus Consolidation/Automation	\$	12,040,000	81126
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CAP-978	Infrastructure Improvements	\$	3,460,000	81127
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Total Department of Mental Health		\$	<del>19,412,500</del>	81128
			<u>19,162,500</u>	

COMMUNITY ASSISTANCE PROJECTS 81129

Of the foregoing appropriation item CAP-479, Community Assistance Projects, ~~\$500,000 shall be used for the Achievement Centers for Children in Cuyahoga County~~ \$250,000 shall be used for the Berea Children's Home.

**Sec. 18.04.** DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

		Appropriations	
STATEWIDE AND CENTRAL OFFICE PROJECTS			81136
CAP-480	Community Assistance Projects	\$ <del>9,441,000</del>	81137
		<u>9,691,000</u>	
CAP-955	Statewide Development Centers	\$ 3,959,000	81138
Total Statewide and Central Office Projects		\$ <del>13,400,000</del>	81139
		<u>13,650,000</u>	
TOTAL Department of Mental Retardation and Developmental Disabilities		\$ <del>13,400,000</del>	81140
		<u>13,650,000</u>	81141
TOTAL MENTAL HEALTH FACILITIES IMPROVEMENT FUND		\$ 33,079,012	81142

COMMUNITY ASSISTANCE PROJECTS 81143

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 wage provisions in section 176.05 of the Revised Code.

Of the foregoing appropriation item CAP-480, Community Assistance Projects, \$150,000 shall be used for the Fostoria Area Community Childhood and Family Center; ~~\$250,000 shall be used for the Berea Children's Home; and~~ \$1,000,000 shall be used for the Bellefaire Jewish Children's Bureau; and \$500,000 shall be used for the Achievement Centers for Children in Cuyahoga County.

**Section 131F.** That existing Sections 18.03 and 18.04 of H.B. 675 of the 124th General Assembly are hereby repealed.

**Section 131G.** That Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly be amended to read as follows:

**Sec. 3.** Sections ~~5739.021, 5739.023, 5739.026,~~ 5739.03, ~~5739.031, 5739.033,~~ 5739.12, 5741.02, and 5741.12, and division (I)(7) of section 5741.01 of the Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 143 of the 124th General Assembly, and sections 306.73, 5703.65, 5739.04, 5739.06, 5741.05, and 5741.08 of the Revised Code, as enacted by ~~this act~~ Am. Sub. S.B. 143 of the 124th General Assembly, shall take effect July 1, 2003. Sections 5739.021, 5739.023, 5739.026, 5739.031, and 5739.033 of the Revised Code, as amended by Am. Sub. S.B. 143 of the 124th General Assembly, shall take effect January 1, 2004.

**Section 131H.** That existing Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly is hereby repealed.

**Section 131I.** The amendment by this act of Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly provides for or is essential to the implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendment is not subject to the referendum and goes into immediate effect when this act becomes law.

**Section 131J.** The amendments to sections 5739.021, 5739.023, 81185  
and 5739.026 of the Revised Code by Am. Sub. S.B. 143 of the 124th 81186  
General Assembly apply to levies proposed by a resolution adopted 81187  
on or after January 1, 2004, and do not apply to levies proposed 81188  
by a resolution adopted before that date. 81189

**Section 131K.** Sections 131G, 131H, 131I, and 131J of this act 81190  
intend to delay the scheduled July 1, 2003, effective date of 81191  
sections 5739.021, 5739.023, 5739.026, 5739.031, and 5739.033 of 81192  
the Revised Code until January 1, 2004. 81193

**Section 132.01.** That Sections 10 and 14 of Am. Sub. S.B. 242 81194  
of the 124th General Assembly be amended to read as follows: 81195

**Sec. 10. NET SCHOOLNET COMMISSION** 81196

Tobacco Master Settlement Agreement Fund Group 81197

S87 228-602 Education Technology \$ 16,500,000 \$ 16,500,000 81198

Trust Fund

TOTAL TSF Tobacco Master 81199  
Settlement Agreement Fund 81200

Group \$ 16,500,000 \$ 16,500,000 81201

TOTAL ALL BUDGET FUND GROUPS \$ 16,500,000 \$ 16,500,000 81202

**EDUCATION TECHNOLOGY TRUST FUND** 81203

The foregoing appropriation item 228-602, Education 81204  
Technology Trust Fund, shall be used by the SchoolNet Commission 81205  
for grants to school districts and other entities and for the 81206  
costs of administering these grants. Of the total amount for 81207  
grants, \$1,917,293 in fiscal year 2003 shall be used for the Ohio 81208  
ONEnet project, \$909,247 in fiscal year 2003 shall be used for the 81209  
INFOhio Network, \$298,750 in fiscal year 2003 shall be used for 81210  
the JASON Project, \$1,000,000 in fiscal year 2003 shall be used 81211



for RISE Learning Solutions, and \$200,000 in fiscal year 2003 81212  
shall be used for the Stark County School Teacher Technical 81213  
Training Center. The remaining amount for grants shall be made to 81214  
school districts. 81215

The JASON Project shall provide funding for statewide access 81216  
and a seventy-five per cent subsidy for statewide licensing of 81217  
JASON content for 90,000 middle school students statewide, and 81218  
professional development for teachers participating in the JASON 81219  
Project. 81220

It is the intent of the General Assembly that the SchoolNet 81221  
Commission, in conjunction with RISE Learning Solutions, shall 81222  
develop a program that may be conducted in conjunction with 81223  
state-supported technology programs, including, but not limited 81224  
to, SchoolNet Commission appropriation item 228-406, Technical and 81225  
Instructional Professional Development, and appropriation item 81226  
228-539, Education Technology, and that shall be designed to 81227  
educate preschool staff members and providers on developmentally 81228  
appropriate teaching methods, behavior guidance, and literacy and 81229  
to involve parents more closely in the education and development 81230  
of their children. The program shall include an interactive 81231  
instructional component, delivered using satellite television, 81232  
Internet, and with facilitation, and shall be distributed to 81233  
program participants using the established satellite receiver 81234  
dishes on public schools, Head Start centers, and childcare 81235  
centers at up to 100 locations throughout the state. The 81236  
interactive instructional component of the program shall be 81237  
developed to enhance the professional development, training, and 81238  
performance of preschool staff members, the education and 81239  
care-giving skills of the parents of preschool children, and the 81240  
preparation of preschool-age children for learning. 81241

The program shall utilize the grant to continue a 81242  
direct-service component that shall include at least three 81243

teleconferences that may be distributed by Ohio-based public 81244  
television utilizing satellite or microwave technology in a manner 81245  
designed to promote interactive communications between the program 81246  
participants located at subsites within the Ohio Educational 81247  
Broadcast Network or as determined by the commission. Program 81248  
participants shall communicate with trainers and participants at 81249  
other program sites through telecommunications and facsimile and 81250  
on-line computer technology. As much as possible, the 81251  
direct-service component shall utilize systems currently available 81252  
in state-supported technology programs and conduct the component 81253  
in a manner that promotes innovative, interactive communications 81254  
between program participants at all the sites. Parent support 81255  
groups and teacher training sessions shall supplement the 81256  
teleconferences and shall occur on a local basis. 81257

RISE Learning Solutions may subcontract components of the 81258  
program. 81259

Individuals eligible to participate in the program include 81260  
those children, their parents, custodians, or guardians, and 81261  
preschool staff members who are eligible to participate in a 81262  
preschool program as defined in division (A) of section 3301.52 81263  
and section 5104.02 of the Revised Code. 81264

The components of the program, including two that shall be 81265  
developed in support of teacher proficiency in teaching reading to 81266  
prekindergarten and kindergarten to third grade students, at the 81267  
direction of the Department of Education, may include: two 81268  
three-hour broadcast seminars from a central up-link station, 81269  
distributed in up to 88 counties; high production-value video 81270  
sought in various locations; and direct interactive adult learning 81271  
activities. These two components shall include development of 81272  
workbooks and involve at least three small, group-facilitated 81273  
follow-up discussion workshops and development and distribution of 81274  
at least two home videos. The program shall also provide Internet 81275

access, interactive lines, bulletin board, and CD-ROM. 81276

Upon completion of each of the school years for which the 81277  
grant was made, RISE Learning Solutions shall issue a report to 81278  
the commission and members of the General Assembly explaining the 81279  
goals and objectives determined, the activities implemented, the 81280  
progress made toward the achievement of the goals and objectives, 81281  
and the outcome of the program. 81282

The commission shall use the remaining appropriation 81283  
authority in fiscal year 2003 and appropriation authority granted 81284  
in fiscal year 2004 to establish and equip, through the SchoolNet 81285  
Plus Program, at least one interactive computer station for each 81286  
five children enrolled in the sixth grade as determined by a 81287  
three-year average adjusted per pupil property valuation pursuant 81288  
to division (A) of section 3317.03 of the Revised Code. Districts 81289  
in the first two quartiles of wealth shall receive up to \$380 per 81290  
pupil for students in grade six to purchase classroom computers 81291  
for the sixth grade. Districts in the third and fourth quartile 81292  
shall receive ~~approximately~~ up to \$188 per sixth grade pupil. If a 81293  
district has met the state's goal of one computer to every five 81294  
students, the district may use funds provided through the 81295  
SchoolNet Plus Program to purchase computers for grade seven or to 81296  
fulfill educational technology needs on other grades as specified 81297  
in the district's technology plan. When there is at least one 81298  
computer for each five children enrolled in the sixth grade, 81299  
SchoolNet shall use any remaining funds appropriated to establish 81300  
and equip at least one interactive computer workstation for each 81301  
five children enrolled in the seventh grade as determined by the 81302  
previously defined formula. 81303

**Sec. 14.** All items set forth in this section are hereby 81304  
appropriated out of any moneys in the state treasury to the credit 81305  
of the Education Facilities Trust Fund (Fund N87) that are not 81306

otherwise appropriated.			81307
		Appropriations	
SFC SCHOOL FACILITIES COMMISSION			81308
CAP-780 Classroom Facilities Assistance Program	\$	<del>148,400,000</del>	81309
		<u>25,600,000</u>	
Total School Facilities Commission	\$	<del>148,400,000</del>	81310
		<u>25,600,000</u>	
TOTAL Education Facilities Trust Fund	\$	<del>148,400,000</del>	81311
		<u>25,600,000</u>	
<b>Section 132.02.</b> That existing Sections 10 and 14 of Am. Sub.			81313
S.B. 242 of the 124th General Assembly is hereby repealed.			81314
<b>Section 132.03.</b> That Section 3 of Am. Sub. H.B. 215 of the			81315
122nd General Assembly, as most recently amended by Am. Sub. H.B.			81316
94 of the 124th General Assembly, be amended to read as follows:			81317
<b>Sec. 3.</b> Section 1751.68 of the Revised Code is hereby			81318
repealed, effective October 16, <del>2003</del> <u>2005</u> .			81319
<b>Section 132.04.</b> That existing Section 3 of Am. Sub. H.B. 215			81320
of the 122nd General Assembly, as most recently amended by Am.			81321
Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.			81322
<b>Section 132.05.</b> * That Section 3 of Am. Sub. H.B. 621 of the			81323
122nd General Assembly, as most recently amended by Am. Sub. H.B.			81324
94 of the 124th General Assembly, be amended to read as follows:			81325
<b>Sec. 3.</b> That sections 166.031, 901.80, 901.81, 901.82, and			81326
901.83 of the Revised Code are hereby repealed, effective <del>July 1,</del>			81327
<del>2003</del> <u>October 15, 2005</u> .			81328
<b>Section 132.06.</b> * That existing Section 3 of Am. Sub. H.B.			81329
621 of the 122nd General Assembly, as most recently amended by Am.			81330

Sub. H.B. 94 of the 124th General Assembly, is hereby repealed. 81331

**Section 132.07.** That Section 153 of Am. Sub. H.B. 117 of the 81332  
121st General Assembly, as most recently amended by Am. Sub. H.B. 81333  
94 of the 124th General Assembly, be amended to read as follows: 81334

**Sec. 153.** (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 81335  
5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 81336  
5112.19, 5112.21, and 5112.99 of the Revised Code are hereby 81337  
repealed, effective October 16, ~~2003~~ 2005. 81338

(B) Any money remaining in the Legislative Budget Services 81339  
Fund on October 16, ~~2003~~ 2005, the date that section 5112.19 of 81340  
the Revised Code is repealed by division (A) of this section, 81341  
shall be used solely for the purposes stated in then former 81342  
section 5112.19 of the Revised Code. When all money in the 81343  
Legislative Budget Services Fund has been spent after then former 81344  
section 5112.19 of the Revised Code is repealed under division (A) 81345  
of this section, the fund shall cease to exist. 81346

**Section 132.08.** That existing Section 153 of Am. Sub. H.B. 81347  
117 of the 121st General Assembly, as most recently amended by Am. 81348  
Sub. H.B. 94 of the 124th General Assembly, is hereby repealed. 81349

**Section 132.09.** \* That Section 27 of Sub. H.B. 670 of the 81350  
121st General Assembly, as amended by Sub. H.B. 548 of the 123rd 81351  
General Assembly, be amended to read as follows: 81352

**Sec. 27.** The following agencies shall be retained pursuant to 81353  
division (D) of section 101.83 of the Revised Code and shall 81354  
expire on December 31, 2004: 81355

REVISED CODE 81356

OR

~~UNCODIFIED~~ 81357

	<u>UNCODIFIED</u>	
AGENCY NAME	SECTION	81358
Advisory Council on Amusement Ride Safety	1711.51	81359
Advisory Board of Directors for Prison Labor	5145.162	81360
Appalachian Public Facilities Council	Sec. 3, H.B. 280, 121st GA	81361
Apprenticeship Council	4111.26	81362
Armory Board of Control	5911.09	81363
Banking Commission	1123.01	81364
Board of Voting Machine Examiners	3506.05(B)	81365
Board of Governors, Medical Malpractice Joint Underwriting Association	3929.77	81366
Board of Tax Appeals	5703.02	81367
Brain Injury Advisory Committee <del>Committee</del>	3304.231 <del>3304.231</del>	81368
Capitol Square Review and Advisory Board	105.41	81369
Child Support Guideline Advisory Council	3113.215(G)	81370
Children's Trust Fund Board	3109.15	81371
Citizen's Advisory Council (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	81372
Citizen's Advisory Council (Dept. of Mental Health)	5119.81	81373
<del>Civilian Conservation Advisory Committee</del>	<del>1553.10</del>	81374
Coastal Resources Advisory Council	1506.12	81375
Commission on African-American Males	4112.12	81376
Commission on Hispanic-Latino Affairs	121.31	81377
Commodity Advisory Commission	926.32	81378
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	81379
Continuing Education Committee (for sheriffs)	109.80	81380
Controlling Board	127.12	81381
Council on Alcohol and Drug Addiction Services	3793.09	81382
Council on Unreclaimed Strip Mine Lands	1513.29	81383

County Sheriffs' Standard Car Marking and Uniform Commission	311.25	81384
Criminal Sentencing Advisory Committee	181.22	81385
Day-Care Advisory Council	5104.08	81386
Development Financing Advisory Council	122.40	81387
Electrical Safety Inspector Advisory Committee	3783.08	81388
Engineering Experiment Station Advisory Committee	3335.27	81389
Environmental Review Appeals Commission	3745.02	81390
Environmental Education Council	3745.21	81391
Forestry Advisory Council	1503.40	81392
Governor's Community Service Council	121.40	81393
Governor's Council on People with Disabilities	3303.41	81394
<del>Hazardous Waste Facility Board</del>	<del>3734.05</del>	81395
Health Care Quality Advisory Council	4121.442	81396
Health Data Advisory Committee	3729.61	81397
Hemophilia Advisory Council	3701.145	81398
Historic Site Preservation Advisory Board	149.301	81399
Home Health Agency Advisory Council	3701.88	81400
Hospital Advisory Committee and the Medical Advisory Committee of the Joint Underwriting Association Board of Governors	3929.76	81401
Industrial Commission	4121.02	81402
Industrial Commission Nominating Council	4121.04	81403
Industrial Technology and Enterprise Advisory Council	122.29	81404
Insurance Agent Education Advisory Council	3905.483	81405
Interagency Recycling Market Development Workgroup	1502.10	81406
Joint Select Committee on Volume Cap	133.021	81407
Labor-Management Government Advisory Council	4121.70	81408
Legal Rights Service Commission	5123.60	81409
Martha Kinney Cooper Ohioana Library Association Board of Trustees	3375.62	81410
Maternal and Child Health Council	3701.025	81411

<del>Medicaid Long Term Care Reimbursement Study Council</del>	<del>5111.34</del>	81412
Medically Handicapped Children's Medical Advisory Council	3701.025	81413
Milk Sanitation Board	917.03	81414
Mine Subsidence Insurance Governing Board	3929.51	81415
Multi-Agency Radio Communication Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	81416
Multidisciplinary Council	3746.03	81417
National Museum of Afro-American History and Culture Planning Committee	149.303	81418
<u>Nursing Facility Reimbursement Study Council</u>	<u>5111.34</u>	81419
Ohio Advisory Council for the Aging	173.03	81420
Ohio Arts Council	3379.02	81421
Ohio Arts and Sports Facilities Commission	3383.02	81422
Ohio Benefit Systems Data Linkage Committee	125.24	81423
Ohio Bicentennial Commission	149.32	81424
Ohio Cemetery Dispute Resolution Commission	4767.05	81425
<del>Ohio Commission on Dispute Resolution and Conflict Management</del>	<del>179.02</del>	81426
Ohio Educational Telecommunications Network Commission	3353.02	81427
Ohio Ethics Commission	102.05	81428
Ohio Expositions Commission	991.02	81429
Ohio Family and Children First Cabinet Council	121.37	81430
Ohio Geology Advisory Council	1505.11	81431
Ohio Grape Industries Committee	924.51	81432
Ohio Historical Society Board of Trustees	149.30	81433
Ohio Lake Erie Commission	1506.21	81434
Ohio Medical Quality Foundation	3701.89	81435
Ohio Natural Areas Council	1517.03	81436
Ohio Parks and Recreation Council	1541.40	81437
Ohio Peace Officer Training Commission	109.71	81438



Ohio Public Defender Commission	120.01	81439
Ohio Quarter Horse Development Commission	3769.086	81440
Ohio Scenic Rivers Advisory Councils	1517.18	81441
Ohio Small Government Capital Improvements Commission	164.02	81442
Ohio Soil and Water Conservation Commission	1515.02	81443
Ohio Standardbred Development Commission	3769.085	81444
Ohio Steel Industry Advisory Council	122.97	81445
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	81446
Ohio Thoroughbred Racing Advisory Committee	3769.084	81447
Ohio Tuition Trust Authority	3334.03	81448
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	81449
Ohio Vendors Representative Committee	3304.34	81450
Ohio Veterans' Home Board of Trustees	5907.02	81451
Ohio War Orphans Scholarship Board	5910.02	81452
Ohio Water Advisory Council	1521.031	81453
Oil and Gas Commission	1509.35	81454
Organized Crime Investigations Commission	177.01	81455
Parole Board	5149.10	81456
Pharmacy and Therapeutics Committee of the Dept. of Human Services	5111.81	81457
Physical Fitness and Sports Advisory Board	3701.77	81458
Power Siting Board	4906.02	81459
Private Water Systems Advisory Council	3701.346	81460
Public Employment Risk Reduction Advisory Commission	4167.02	81461
Public Utilities Commission Nominating Council	4901.021	81462
Reclamation Commission	1513.05	81463
Recreation and Resources Commission	1501.04	81464
Recycling and Litter Prevention Advisory Council	1502.04	81465
Rehabilitation Services Commission Consumer	3304.24	81466

Advisory Committee

Select Commission on Pyrotechnics	Sec. 3, H.B. 508, 119th GA	81467
Services Committee of the Workers' Compensation System	4121.06	81468
Set Aside Review Board	123.151(C)(4)	81469
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	81470
Solid Waste Management Advisory Council	3734.51	81471
State Board of Deposit	135.02	81472
State Board of Library Examiners	3375.47	81473
State Council of Uniform State Laws	105.21	81474
State Committee for the Purchase of Products and Services of Persons with Severe Disabilities	4115.32	81475
State Criminal Sentencing Commission	181.21	81476
State Fire Commission	3737.81	81477
State and Local Government Commission of Ohio	105.45	81478
State Victims Assistance Advisory Committee	109.91	81479
Student Tuition Recovery Authority	3332.081	81480
Subcommittee of the State Board of Emergency Medical Services for Firefighter and Fire Safety Inspector Training	4765.55	81481
Submerged Lands Advisory Council	1506.37	81482
Tax Credit Authority	122.17	81483
Technical Advisory Committee to assist the Director of the Ohio Coal Development Office	1551.35	81484
Technical Advisory Council on Oil and Gas	1509.38	81485
Technology Advisory Committee (for Education)	Sec. 45.01, H.B. 117, 121st GA	81486
Unemployment Compensation Review Commission	4141.06	81487
Unemployment Compensation Advisory Council	4141.08	81488
Utility Radiological Safety Board	4937.02	81489

Veterans Advisory Committee	5902.02(K)	81490
Water and Sewer Commission	1525.11(C)	81491
Waterways Safety Council	1547.73	81492
Welfare Oversight Council	5101.93	81493
Wildlife Council	1531.03	81494
Workers' Compensation System Oversight Committee	Sec. 10, H.B. 222, 118th GA	81495
Wright-Dunbar State Heritage Commission	149.321	81496

**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 132.12A.** Section 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 299 of the 124th General Assembly and Am. Sub. S.B. 261 of the 124th General Assembly, is hereby repealed.

**Section 132.12B.** That Section 2 of Am. Sub. H.B. 71 of the 120th General Assembly be amended to read as follows:

**Sec. 2.** Sections ~~1742.427~~ 3901.497 and 3901.50 of the Revised Code are hereby repealed, effective ~~ten years after the effective~~

~~date of this act~~ February 9, 2014. The repeal of these sections 81516  
shall apply only to contracts and policies that are delivered, 81517  
issued for delivery, or renewed in this state on or after that 81518  
date, and to plans of self-insurance that are established or 81519  
modified in this state on or after that date. 81520

**Section 132.12C.** That existing Section 2 of Am. Sub. H.B. 71 81521  
of the 120th General Assembly is hereby repealed. 81522

**Section 132.12D.** That Section 6 of Am. Sub. S.B. 67 of the 81523  
122nd General Assembly be amended to read as follows: 81524

**Sec. 6.** Section 1751.64 of the Revised Code is hereby 81525  
repealed, effective February 9, ~~2004~~ 2014. The repeal of that 81526  
section shall apply only to contracts that are delivered, issued 81527  
for delivery, or renewed in this state on or after that date. 81528

**Section 132.12E.** That existing Section 6 of Am. Sub. S.B. 67 81529  
of the 122nd General Assembly is hereby repealed. 81530

**Section 132.14.** Section 129 of Am. Sub. H.B. 283 of the 123rd 81531  
General Assembly as amended by Am. Sub. H.B. 94 of the 124th 81532  
General Assembly is hereby repealed. 81533

**Section 132.14A.** Section 3 of Sub. H.B. 403 of the 123rd 81534  
General Assembly is hereby repealed. 81535

**Section 132.14B.** Section 16 of Am. Sub. H.B. 87 of the 125th 81536  
General Assembly is hereby repealed. 81537

**Section 132.14C.** \* Section 3 of Am. Sub. S.B. 272 of the 81538  
123rd General Assembly, as amended by Am. Sub. H.B. 768 of the 81539  
123rd General Assembly, is hereby repealed. 81540

**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 81571  
Facilities Trust Fund shall be reduced by the amount that is 81572  
transferred from the Tobacco Master Settlement Agreement Fund to 81573  
the General Revenue Fund in accordance with this division. 81574

**Section 134.** TEMPORARY ADJUSTMENT TO LOCAL GOVERNMENT 81575  
DISTRIBUTIONS 81576

(A) On or before the seventh day of each month of the period 81577  
July 2003 through June 2005, the Tax Commissioner shall determine 81578  
and certify to the Director of Budget and Management the amount to 81579  
be credited, by tax, during that month to the Local Government 81580  
Fund, to the Library and Local Government Support Fund, and to the 81581  
Local Government Revenue Assistance Fund, respectively, pursuant 81582  
to divisions (B), (C), and (D) of this section. 81583

(B) Notwithstanding section 5727.84 of the Revised Code to 81584  
the contrary, for the period July 1, 2003, through June 30, 2005, 81585  
no amounts shall be credited to the Local Government Fund or to 81586  
the Local Government Revenue Assistance Fund from the kilowatt 81587  
hour tax, and such amounts that would have otherwise been required 81588  
to be credited to such funds shall instead be credited to the 81589  
General Revenue Fund. Notwithstanding sections 5727.45, 5733.12, 81590  
5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, 81591  
for each month in the period July 1, 2003, through June 30, 2005, 81592  
from the public utility excise, corporate franchise, sales, use, 81593  
and personal income taxes collected; 81594

(1) An amount shall first be credited to the Local Government 81595  
Fund that equals the amount credited to that fund from that tax 81596  
according to the schedule in division (C) of this section. 81597

(2) An amount shall next be credited to the Local Government 81598  
Revenue Assistance Fund that equals the amount credited to that 81599  
fund from that tax according to the schedule in division (C) of 81600  
this section. 81601

(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	81633
of the amount credited in November 2003;	81634
(6) In December 2003, one hundred per cent of the amount	81635
credited in December 2002; in December 2004, one hundred per cent	81636
of the amount credited in December 2003;	81637
(7) In January 2004, one hundred per cent of the amount	81638
credited in January 2003; in January 2005, one hundred per cent of	81639
the amount credited in January 2004;	81640
(8) In February 2004, one hundred per cent of the amount	81641
credited in February 2003; in February 2005, one hundred per cent	81642
of the amount credited in February 2004;	81643
(9) In March 2004, one hundred per cent of the amount	81644
credited in March 2003; in March 2005, one hundred per cent of the	81645
amount credited in March 2004;	81646
(10) In April 2004, one hundred per cent of the amount	81647
credited in April 2003; in April 2005, one hundred per cent of the	81648
amount credited in April 2004;	81649
(11) In May 2004, one hundred per cent of the amount in	81650
division (C)(11)(a) of this section; in May 2005, one hundred per	81651
cent of the amount in division (C)(11)(b) of this section;	81652
(a) The amount credited in May 2003, less any amount reduced	81653
pursuant to division (D)(4) of Section 140 of Am. Sub. H.B. 94 of	81654
the 124th General Assembly, as amended by Am. Sub. H.B. 405 of the	81655
124th General Assembly and as amended by Am. Sub. H.B. 390 of the	81656
124th General Assembly;	81657
(b) The amount credited in May 2004.	81658
(12) In June 2004, one hundred per cent of the amount in	81659
division (C)(12)(a) of this section, less any reduction required	81660
under division (D)(1) of this section; in June 2005, one hundred	81661
per cent of the amount in division (C)(12)(b) of this section,	81662



less any reduction required under division (D)(2) of this section; 81663

(a) The amount credited in June 2003 before any reduction 81664  
made pursuant to division (D)(4) of Section 140 of Am. Sub. H.B. 81665  
94 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 81666  
of the 124th General Assembly and as amended by Am. Sub. H.B. 390 81667  
of the 124th General Assembly; 81668

(b) The amount credited in June 2004. 81669

(D) The Tax Commissioner shall do each of the following: 81670

(1) By June 7, 2004, the commissioner shall subtract the 81671  
amount calculated in division (D)(1)(b) of this section from the 81672  
amount calculated in division (D)(1)(a) of this section. If the 81673  
amount in division (D)(1)(a) of this section is greater than the 81674  
amount in division (D)(1)(b) of this section, then such difference 81675  
shall be subtracted from the total amount of income tax revenue 81676  
credited to the Local Government Fund, the Local Government 81677  
Revenue Assistance Fund, and the Library and Local Government 81678  
Support Fund in June 2004. An amount shall be subtracted from 81679  
income tax revenue credited to the Local Government Fund, the 81680  
Local Government Revenue Assistance Fund, or the Library and Local 81681  
Government Support Fund only if, and according to the proportion 81682  
by which, such fund contributed to the result that the amount in 81683  
division (D)(1)(a) of this section exceeds the amount in division 81684  
(D)(1)(b) of this section. 81685

(a) The sum of all money credited to the Local Government 81686  
Fund, the Local Government Revenue Assistance Fund, and the 81687  
Library and Local Government Support Fund from July 2003 through 81688  
May 2004; 81689

(b) The sum of all money that would have been credited to the 81690  
Local Government Fund, the Local Government Revenue Assistance 81691  
Fund, and the Library and Local Government Support Fund from July 81692  
2003 through May 2004, if sections 5727.45, 5727.84, 5733.12, 81693

5739.21, 5741.03, and 5747.03 of the Revised Code were in effect 81694  
during this period. 81695

(2) By June 7, 2005, the commissioner shall subtract the 81696  
amount calculated in division (D)(2)(b) of this section from the 81697  
amount calculated in division (D)(2)(a) of this section. If the 81698  
amount in division (D)(2)(a) of this section is greater than the 81699  
amount in division (D)(2)(b) of this section, then such difference 81700  
shall be subtracted from the total amount of income tax revenue 81701  
credited to the Local Government Fund, the Local Government 81702  
Revenue Assistance Fund, and the Library and Local Government 81703  
Support Fund in June 2005. An amount shall be subtracted from 81704  
income tax revenue credited to the Local Government Fund, the 81705  
Local Government Revenue Assistance Fund, or the Library and Local 81706  
Government Support Fund only if, and according to the proportion 81707  
by which, such fund contributed to the result that the amount in 81708  
division (D)(2)(a) of this section exceeds the amount in division 81709  
(D)(2)(b) of this section. 81710

(a) The sum of all money credited to the Local Government 81711  
Fund, the Local Government Revenue Assistance Fund, and the 81712  
Library and Local Government Support Fund from June 2004 through 81713  
May 2005; 81714

(b) The sum of all money that would have been credited to the 81715  
Local Government Fund, the Local Government Revenue Assistance 81716  
Fund, and the Library and Local Government Support Fund from June 81717  
2004 through May 2005, if sections 5727.45, 5727.84, 5733.12, 81718  
5739.21, 5741.03, and 5747.03 of the Revised Code were in effect 81719  
during this period. 81720

(3) On the advice of the Tax Commissioner, during any month 81721  
other than June 2004 or June 2005 of the period July 1, 2003, 81722  
through July 31, 2005, the Director of Budget and Management may 81723  
reduce the amounts that are to be otherwise credited to the Local 81724  
Government Fund, Local Government Revenue Assistance Fund, or 81725

Library and Local Government Support Fund in order to accomplish 81726  
more effectively the purposes of the adjustments in divisions 81727  
(D)(1) and (2) of this section. If the respective calculations 81728  
made in June 2004 and June 2005 pursuant to divisions (D)(1) and 81729  
(2) of this section indicate that excess reductions had been made 81730  
during the previous months, such excess amounts shall be credited, 81731  
as appropriate, to the Local Government Fund, Local Government 81732  
Revenue Assistance Fund, and Library and Local Government Support 81733  
Fund. 81734

(E) Notwithstanding any other provision of law to the 81735  
contrary, the total amount credited to each fund in each month 81736  
during the period July 2003 through June 2005 shall be distributed 81737  
by the tenth day of the immediately succeeding month in the 81738  
following manner: 81739

(1) Each county undivided local government fund shall receive 81740  
a distribution from the Local Government Fund based on its 81741  
proportionate share of the total amount received from the fund in 81742  
such respective month for the period July 1, 2002, through June 81743  
30, 2003. 81744

(2) Each municipality receiving a direct distribution from 81745  
the Local Government Fund shall receive a distribution based on 81746  
its proportionate share of the total amount received from the fund 81747  
in such respective month for the period July 1, 2002, through June 81748  
30, 2003. 81749

(3) Each county undivided local government revenue assistance 81750  
fund shall receive a distribution from the Local Government 81751  
Revenue Assistance Fund based on its proportionate share of the 81752  
total amount received from the fund in such respective month for 81753  
the period July 1, 2002, through June 30, 2003. 81754

(4) Each county undivided library and local government 81755  
support fund shall receive a distribution from the Library and 81756

Local Government Support Fund based on its proportionate share of 81757  
the total amount received from the fund in such respective month 81758  
for the period July 1, 2002, through June 30, 2003. 81759

(F) For the 2003, 2004, and 2005 distribution years, the Tax 81760  
Commissioner is not required to issue the certifications otherwise 81761  
required by sections 5747.47, 5747.501, 5747.51, and 5747.61 of 81762  
the Revised Code, but shall provide to each county auditor by the 81763  
twentieth day of July 2003, July 2004, and July 2005 an estimate 81764  
of the amounts to be received by the county in the ensuing year 81765  
from the Local Government Fund, Local Government Revenue 81766  
Assistance Fund, and Library and Local Government Support Fund 81767  
pursuant to this section and any pertinent section of the Revised 81768  
Code. The Tax Commissioner may choose to report to each county 81769  
auditor a revised estimate of the 2003, 2004, or 2005 81770  
distributions at any time during the period July 1, 2003, through 81771  
July 31, 2005. 81772

(G) If provisions of H.B. 40 of the 125th General Assembly 81773  
are enacted that authorize reductions in the amounts credited to 81774  
the Local Government Fund, Local Government Revenue Assistance 81775  
Fund, and Library and Local Government Support Fund during fiscal 81776  
year 2003, the fiscal year 2003 amounts used in determining the 81777  
amounts credited to such funds during fiscal year 2004 pursuant to 81778  
division (C) of this section shall be before any such reductions. 81779

(H) During the period July 1, 2003, through July 31, 2005, 81780  
the Director of Budget and Management shall issue those directives 81781  
to state agencies that are necessary to ensure that the 81782  
appropriate amounts are distributed to the Local Government Fund, 81783  
to the Local Government Revenue Assistance Fund, and to the 81784  
Library and Local Government Support Fund. 81785

**Section 136. \* CAPITAL APPROPRIATION TO SFC** 81786

All items set forth in this section are hereby appropriated 81787

out of any moneys in the state treasury to the credit of the 81788  
School Building Program Assistance Fund (Fund 032), created under 81789  
section 3318.25 of the Revised Code, derived from the proceeds of 81790  
obligations heretofore and herein authorized to pay the cost of 81791  
facilities for a system of common schools throughout the state for 81792  
the period beginning July 1, 2002, and ending June 30, 2004. The 81793  
appropriation shall be in addition to any other appropriation for 81794  
this purpose. 81795

Appropriations

SFC SCHOOL FACILITIES COMMISSION			81796
CAP-770	School Building Program Assistance	\$ 122,800,000	81797
Total School Facilities Commission			\$ 122,800,000 81798
TOTAL School Building Program Assistance Fund			\$ 122,800,000 81799

\* SCHOOL BUILDING PROGRAM ASSISTANCE 81800

The foregoing appropriation item CAP-770, School Building 81801  
Program Assistance, shall be used by the School Facilities 81802  
Commission to provide funding to school districts that receive 81803  
conditional approval from the Commission pursuant to Chapter 3318. 81804  
of the Revised Code. Expenditures from appropriations contained in 81805  
this section may be accounted for as though made for the fiscal 81806  
year 2003-2004 biennium in H.B. 675 of the 124th General Assembly. 81807  
The School Facilities Commission shall not disburse any of the 81808  
appropriations made in this section until after April 1, 2004. 81809

\* BOND ISSUANCE AUTHORITY 81810

The Ohio Public Facilities Commission is hereby authorized to 81811  
issue and sell, in accordance with the provisions of Section 2n of 81812  
Article VIII, Ohio Constitution, and Chapter 151. and particularly 81813  
sections 151.01 and 151.03 of the Revised Code, original 81814  
obligations in an aggregate principal amount not to exceed 81815  
\$123,000,000, in addition to the original issuance of obligations 81816  
heretofore authorized by prior acts of the General Assembly. The 81817  
authorized obligations shall be issued, subject to applicable 81818

constitutional and statutory limitations, to pay the costs to the 81819  
state of previously authorized capital facilities and the capital 81820  
facilities authorized in this section for the School Building 81821  
Program Assistance Fund pursuant to Chapter 3318. of the Revised 81822  
Code. 81823

**Section 136A.** (A) On the effective date of this section, the 81824  
following programs administered by the Ohio School Facilities 81825  
Commission are terminated: 81826

(1) The Short-Term Loan Program established by Section 10.01 81827  
of Am. Sub. H.B. 282 of the 123rd General Assembly; 81828

(2) The Emergency School Repair Program codified in section 81829  
3318.35 of the Revised Code. 81830

No new school district shall be served under any of these 81831  
programs. The Commission may continue serving school districts 81832  
that were receiving assistance under any of these programs before 81833  
the effective date of this section in accordance with terms and 81834  
agreements in effect on that date. 81835

(B) On March 31, 2004, the Disability Access Program 81836  
established by Section 50.15 of Am. Sub. H.B. 215 of the 122nd 81837  
General Assembly, Section 5 of Am. Sub. S.B. 102 of the 122nd 81838  
General Assembly, as subsequently amended, Section 10 of Am. Sub. 81839  
H.B. 282 of the 123rd General Assembly, as subsequently amended, 81840  
Section 102.01 of Am. Sub. H.B. 94 of the 124th General Assembly, 81841  
and Section 5 of Am. Sub. H.B. 524 of the 124th General Assembly 81842  
is terminated. 81843

No new school district shall be served under this program. 81844  
The Commission may continue serving school districts that were 81845  
receiving assistance under this program before the effective date 81846  
of this section in accordance with terms and agreements in effect 81847  
on that date. 81848

On April 1, 2004, or as soon as possible thereafter, the 81849  
Director of Budget and Management shall transfer the unencumbered 81850  
and unallotted balance in appropriation item CAP-777, Disability 81851  
Access Projects, to appropriation item CAP-662, Public School 81852  
Buildings. The amount transferred from CAP-777, Disability Access 81853  
Projects, shall be used to fund classroom facilities projects in 81854  
accordance with Chapter 3318. of the Revised Code. 81855

**Section 137C. OFFICE OF QUALITY SERVICES FUND TRANSFERS** 81856

Notwithstanding any other provision of law to the contrary, 81857  
the Director of Budget and Management shall transfer any remaining 81858  
amounts of cash from the following specified obsolete fund to the 81859  
General Revenue Fund within thirty days after the effective date 81860  
of this section: Quality Services (General Services Fund 4C1). The 81861  
amount of such transfer to the General Revenue Fund is hereby 81862  
appropriated to General Revenue Fund appropriation item 042-409, 81863  
Commission Closures. 81864

**Section 137D. TRANSFER FROM BOARD OF TAX APPEALS** 81865

Notwithstanding any other provision of law to the contrary, 81866  
on July 31, 2003, or as soon thereafter as possible, the Director 81867  
of Budget and Management shall transfer any remaining amounts of 81868  
cash from the following specified obsolete fund to the General 81869  
Revenue Fund: Reproduction of Decisions (General Services Fund 81870  
439). 81871

**Section 138.** (A) As used in this section, "nursing facility" 81872  
means a facility, or a distinct part of a facility, that is 81873  
certified as a nursing facility by the Director of Health for 81874  
purposes of the Medicaid Program and is not an intermediate care 81875  
facility for the mentally retarded. "Nursing facility" includes a 81876  
facility, or a distinct part of a facility, that is certified as a 81877

skilled nursing facility by the Director of Health for purposes of 81878  
the Medicare Program. 81879

(B) The Director of Health shall request from the Secretary 81880  
of the United States Department of Health and Human Services 81881  
approval to develop an alternative regulatory procedure for 81882  
nursing facilities subject to federal regulation. If the Secretary 81883  
gives approval, the Director shall convene the Nursing Facility 81884  
Regulatory Reform Task Force. 81885

(C) The Director of Health shall serve as chair of the Task 81886  
Force. The Director of Aging, the Director of Job and Family 81887  
Services, the State Long-Term Care Ombudsman, or persons they 81888  
designate and a member of the Governor's staff designated by the 81889  
Governor shall serve on the Task Force. The Director of Health 81890  
shall appoint the following individuals to serve on the Task 81891  
Force: 81892

(1) Two representatives of the Ohio Health Care Association; 81893

(2) Two representatives of the Association of Ohio 81894  
Philanthropic Homes and Housing for the Aging; 81895

(3) Two representatives of the Ohio Academy of Nursing Homes; 81896

(4) Two representatives of the American Association of 81897  
Retired Persons (AARP); 81898

(5) Two representatives of Families for Improved Care; 81899

(6) A representative from the Ohio Association of Regional 81900  
Long-Term Care Ombudsman Programs; 81901

(7) A representative of the 1199 League of Registered Nurses; 81902

(8) A representative of the American Federation of State, 81903  
County, and Municipal Employees. 81904

(D) Except to the extent that service on the task force is 81905  
part of their employment, Task Force members shall serve without 81906  
compensation and shall not be reimbursed by the State for expenses 81907



incurred in carrying out their duties on the Task Force. The 81908  
Scripps Gerontology Center at Miami University shall provide 81909  
technical and support services for the Task Force. 81910

(E) The Task Force shall do all of the following: 81911

(1) Review the effectiveness of current regulatory procedures 81912  
for nursing facilities regarding the quality of care and quality 81913  
of life of nursing facility residents; 81914

(2) Develop recommendations for improved regulatory 81915  
procedures for nursing facilities to improve the quality of care 81916  
and quality of life of nursing facility residents; 81917

(3) Evaluate potential effects on nursing facility residents 81918  
of elimination of components of the Certificate of Need program 81919  
pertaining to long-term care facilities; 81920

(4) Develop possible demonstration projects to present the 81921  
potential of proposed changes to the regulatory procedure to 81922  
increase the quality of care and the quality of life of nursing 81923  
facility residents. 81924

(F) The Task Force shall submit a report of its findings and 81925  
recommendations to the Speaker and Minority Leader of the House of 81926  
Representatives and to the President and Minority Leader of the 81927  
Senate. The report shall explain any changes to the Revised Code 81928  
required to implement the recommendations. On submission of the 81929  
recommendations, the Task Force shall cease to exist. 81930

(G) At the request of the General Assembly by adoption of a 81931  
joint resolution, the Director of Health shall apply to the 81932  
Secretary of the United States Department of Health and Human 81933  
Services for a waiver to implement the recommendations of the Task 81934  
Force. 81935

**Section 139.01.** In amending sections 121.084, 4104.41, 81936  
4104.44, 4104.45, and 4104.46 (4104.48), in enacting new section 81937

4104.46 and section 4104.47, and in repealing and re-enacting 81938  
sections 4104.42 and 4104.43 of the Revised Code, it is the intent 81939  
of the General Assembly that the provisions of this act are 81940  
general laws created in the exercise of the state's police power, 81941  
arising out of matters of statewide concern, and are designed for 81942  
the health, safety, and welfare of contractors, their employees, 81943  
and the public. 81944

**Section 139.02.** In amending sections 121.084, 4104.41, 81945  
4104.44, 4104.45, and 4104.46 (4104.48), in enacting new section 81946  
4104.46 and section 4104.47, and in repealing and re-enacting 81947  
sections 4104.42 and 4104.43 of the Revised Code, it is the intent 81948  
of the General Assembly that power, refrigerating, hydraulic, 81949  
heating and liquefied petroleum gas, oxygen, and other gaseous 81950  
piping systems will continue to be inspected as part of the 81951  
building permit process, enforcement of plumbing and mechanical 81952  
building codes, and occupancy certification. The purpose of this 81953  
legislative action is solely to eliminate duplicative inspection 81954  
personnel and fees. 81955

**Section 145.01.** \* The Hemophilia Advisory Council established 81956  
under section 3701.145 of the Revised Code, renumbered as section 81957  
3701.0210 of the Revised Code by this act, is hereby abolished. 81958

**Section 145.03.** \* Upon the taking effect of this section, the 81959  
Hazardous Waste Facility Board is abolished. 81960

All of the rules adopted by the Hazardous Waste Facility 81961  
Board are abolished on that date. The Director of the Legislative 81962  
Service Commission shall remove the rules from the Administrative 81963  
Code as if they had been rescinded. 81964

On and after the effective date of this section and until the 81965  
Director of Environmental Protection adopts rules that eliminate 81966  
references to the Hazardous Waste Facility Board, whenever the 81967

Hazardous Waste Facility Board or Board, when "Board" refers to 81968  
the Hazardous Waste Facility Board, is referred to in a rule, the 81969  
reference shall be deemed to refer to the Environmental Protection 81970  
Agency or the Director of Environmental Protection, whichever is 81971  
appropriate. As expeditiously as possible after the effective date 81972  
of this section, the Director of Environmental Protection shall 81973  
adopt rules eliminating references to the Hazardous Waste Facility 81974  
Board. 81975

Permits or modifications issued by the Hazardous Waste 81976  
Facility Board under section 3734.05 of the Revised Code as that 81977  
section existed prior to its amendment by this act shall continue 81978  
in effect as if the Director had issued the permits or 81979  
modifications under section 3734.05 of the Revised Code after the 81980  
effective date of its amendment by this act. Any application 81981  
pending before the Hazardous Waste Facility Board on the effective 81982  
date of this section shall be transferred to the Environmental 81983  
Protection Agency for approval or disapproval by the Director. All 81984  
records, files, and other documents of the Hazardous Waste 81985  
Facility Board shall be transferred to the Environmental 81986  
Protection Agency. 81987

**Section 145.03A.** (A) There is hereby created the Ohio Autism 81988  
Task Force consisting of the following members: 81989

(1) All of the following persons to be appointed by the 81990  
Governor: 81991

(a) A person diagnosed with autism; 81992

(b) Four persons who are parents of children diagnosed with 81993  
autism; 81994

(c) A special education administrator of an Ohio school 81995  
district; 81996

(d) A representative of the Ohio Association of County Boards 81997

of Mental Retardation and Developmental Disabilities;	81998
(e) A representative of the Ohio Developmental Disabilities Council;	81999 82000
(f) A representative of the Autism Society of Ohio;	82001
(g) A developmental pediatrician who is a member of the Ohio Association of Pediatricians;	82002 82003
(h) Two representatives from private schools in Ohio that provide special education services to children diagnosed with autism;	82004 82005 82006
(i) Two representatives from Ohio hospitals that provide services to children diagnosed with autism.	82007 82008
(2) Two members of the House of Representatives, one from the majority party and one from the minority party, appointed by the Speaker of the House of Representatives;	82009 82010 82011
(3) Two members of the Senate, one from the majority party and one from the minority party, appointed by the President of the Senate;	82012 82013 82014
(4) The Director of Mental Retardation and Developmental Disabilities or the Director's designee;	82015 82016
(5) The Director of Job and Family Services or the Director's designee;	82017 82018
(6) The Superintendent of Public Instruction or the Superintendent's designee;	82019 82020
(7) The Director of Health or the Director's designee.	82021
(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.	82022 82023 82024 82025 82026

(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 145.03I.** As used in this section, "qualified property" means real and tangible personal property that satisfies the qualifications for tax exemption under the terms of section 3313.44, 5709.07, 5709.08, 5709.10, 5709.12, 5709.121, or 5709.14 of the Revised Code.

Notwithstanding section 5713.081 of the Revised Code, when qualified property has not received tax exemption due to a failure to comply with Chapter 5713. or section 5715.27 of the Revised Code, the owner of the property, at any time on or before twenty-four months after the effective date of this section, may

file with the Tax Commissioner an application requesting that the 82057  
property be placed on the tax exempt list and that all unpaid 82058  
taxes, penalties, and interest on the property be abated. 82059

The application shall be made on the form prescribed by the 82060  
Tax Commissioner under section 5715.27 of the Revised Code and 82061  
shall list the name of the county in which the property is 82062  
located; the property's legal description; its taxable value; the 82063  
amount in dollars of the unpaid taxes, penalties, and interest; 82064  
the date of acquisition of title to the property; the use of the 82065  
property during any time that the unpaid taxes accrued; and any 82066  
other information required by the Tax Commissioner. The county 82067  
auditor shall supply the required information upon request of the 82068  
applicant. 82069

Upon request of the applicant, the county treasurer shall 82070  
determine if all taxes, penalties, and interest that became a lien 82071  
on the qualified property before it first was used for an exempt 82072  
purpose and all special assessments charged against the property 82073  
have been paid in full. If so, the county treasurer shall issue a 82074  
certificate to the applicant stating that all such taxes, 82075  
penalties, interest, and assessments have been paid in full. Prior 82076  
to filing the application with the Tax Commissioner, the applicant 82077  
shall attach the county treasurer's certificate to it. The Tax 82078  
Commissioner shall not consider an application filed under this 82079  
section unless such a certificate is attached to it. 82080

Upon receipt of the application and after consideration of 82081  
it, the Tax Commissioner shall determine if the applicant meets 82082  
the qualifications set forth in this section, and if so shall 82083  
issue an order directing that the property be placed on the tax 82084  
exempt list of the county and that all unpaid taxes, penalties, 82085  
and interest for every year the property met the qualifications 82086  
for exemption described in section 3313.44, 5709.07, 5709.08, 82087  
5709.10, 5709.12, 5709.121, or 5709.14 of the Revised Code be 82088

abated. If the Tax Commissioner finds that the property is not now 82089  
being so used or is being used for a purpose that would foreclose 82090  
its right to tax exemption, the Tax Commissioner shall issue an 82091  
order denying the application. 82092

If the Tax Commissioner finds that the property is not 82093  
entitled to tax exemption and to the abatement of unpaid taxes, 82094  
penalties, and interest for any of the years for which the owner 82095  
claims an exemption or abatement, the Tax Commissioner shall order 82096  
the county treasurer of the county in which the property is 82097  
located to collect all taxes, penalties, and interest due on the 82098  
property for those years in accordance with law. 82099

The Tax Commissioner may apply this section to any qualified 82100  
property that is the subject of an application for exemption 82101  
pending before the Tax Commissioner on the effective date of this 82102  
section, without requiring the property owner to file an 82103  
additional application. The Tax Commissioner also may apply this 82104  
section to any qualified property that is the subject of an 82105  
application for exemption filed on or after the effective date of 82106  
this section and on or before twelve months after that effective 82107  
date, even though the application does not expressly request 82108  
abatement of unpaid taxes. 82109

**Section 145.03J.** (A) The amendment, repeal and reenactment, 82110  
or enactment by this act of sections 718.01, 718.02, 718.021, 82111  
718.03, 718.031, 718.05, 718.051, and 718.121 of the Revised Code 82112  
apply to taxable years beginning on or after January 1, 2004. 82113

(B) The amendment by this act of sections 718.11, 5717.011, 82114  
and 5717.03 of the Revised Code apply to matters relating to 82115  
taxable years beginning on or after January 1, 2004. 82116

**Section 145.03K.** \* Not later than thirty days after the 82117  
effective date of this section, one or more individuals 82118

representing municipal government interests shall be appointed to 82119  
the steering committee that directs the continuing development of 82120  
the Ohio Business Gateway. These individuals shall assist in the 82121  
development of the enhancements to the Ohio Business Gateway that 82122  
affect municipal tax administration and issues related to such 82123  
administration, including, but not limited to, banking issues, 82124  
technological issues, and administrative convenience issues for 82125  
municipalities and taxpayers. 82126

**Section 145.03N.** (A) The amendment by this act of sections 82127  
165.09, 902.11, 4981.20, 5703.052, 5739.01, 5739.011, 5739.012, 82128  
5739.02, 5739.03, 5739.032, 5739.033 (in Section 1 of this act), 82129  
5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5741.01, 5741.02, 82130  
and 5741.121 of the Revised Code apply on and after July 1, 2003. 82131

(B) The amendment by this act of sections 5739.021, 5739.022, 82132  
5739.023, and 5739.026 of the Revised Code apply on and after 82133  
January 1, 2004. 82134

(C) Except as otherwise provided in this division, the 82135  
amendment by this act of sections 5739.025, 5739.10, 5741.021, 82136  
5741.022, and 5741.023 of the Revised Code apply on and after 82137  
January 1, 2006. The amendment by this act of division (E) of 82138  
section 5739.025 of the Revised Code applies on and after July 1, 82139  
2003. 82140

(D) The repeal and re-enactment by this act of section 82141  
5739.034 of the Revised Code applies on and after July 1, 2003. 82142

**Section 145.030.** Sections 107.32 and 107.33 of the Revised 82143  
Code shall apply to all state institutional facilities, as defined 82144  
in section 107.32 of the Revised Code, that were in operation on 82145  
or after January 1, 2003. 82146

**Section 145.03R.** The Legislative Office of Education 82147



Oversight shall conduct a review of partnership agreements between 82148  
a Head Start provider and a provider of child care or day care 82149  
services. In conducting this review, the Office shall analyze the 82150  
following: 82151

(A) The impact on literacy-readiness for children receiving 82152  
services as a result of such agreements; 82153

(B) The costs and benefits of such agreements to both 82154  
participant children and the providers who are parties to the 82155  
agreements. In analyzing the costs and benefits of such 82156  
agreements, the Office shall examine the financial costs and 82157  
benefits to providers who are parties to the agreements and to 82158  
families of participant children. Additionally, the Office shall 82159  
examine intangible costs and benefits to participant children, 82160  
such as intellectual, emotional, and physical benefits or 82161  
detriments caused by service under such agreements. 82162

(C) The operation of the agreements. In analyzing the 82163  
operation of the agreements, the Office shall review how the 82164  
agreements work, how well the agreements work, what components are 82165  
included in the agreements, and whether the agreements are unique 82166  
to the providers who are parties to the agreements or standardized 82167  
across the state or within a local region. 82168

(D) Whether there is an administrative entity, such as a 82169  
county department of job and family services, that oversees the 82170  
implementation of a particular agreement. If there is such an 82171  
entity that oversees an agreement, the Office shall examine the 82172  
degree to which oversight is performed and what overhead costs the 82173  
administrative entity incurs in overseeing such agreements. 82174

The Office shall submit the final results of this study to 82175  
the General Assembly not later than December 31, 2004. 82176

**Section 145.03T.** (A) Within one hundred twenty days after the 82177

effective date of this section, the Director of Agriculture, the 82178  
Director of Rehabilitation and Correction, and the Director of 82179  
Youth Services shall develop a plan to optimize the quantity and 82180  
use of food grown and harvested in state correctional institutions 82181  
or secure facilities operated by the Department of Youth Services 82182  
in the most cost-effective manner. The plan shall include methods 82183  
to increase production at farms operated by either department and 82184  
shall include methods to ensure that the highest possible 82185  
percentage of food consumed at state correctional institutions and 82186  
secure facilities operated by the Department of Youth Services is 82187  
food grown and harvested at a state correctional institution or 82188  
secure facility operated by the Department of Youth Services. 82189

(B) The plan shall consider possible amendments to the 82190  
Revised Code, amendments to the Administrative Code, 82191  
administrative changes, financial strategies, strategies to obtain 82192  
a reliable workforce, and any other means to optimize the quantity 82193  
and use of food of that nature in state correctional institutions 82194  
and secure facilities operated by the Department of Youth 82195  
Services. 82196

The plan and its findings, conclusions, and any 82197  
recommendations and proposed legislation shall be submitted to the 82198  
Speaker of the House of Representatives, the President of the 82199  
Senate, the Governor, the Director of Rehabilitation and 82200  
Correction, and the Director of Youth Services. 82201

(C) As used in this section, "state correctional institution" 82202  
has the same meaning as in section 2967.01 of the Revised Code. 82203

**Section 145.03BB.** The State Racing Commission shall conduct a 82204  
performance study of the Commission based upon its current level 82205  
of full-time employees. The Commission, not later than January 1, 82206  
2004, shall make recommendations to the Governor and the General 82207  
Assembly regarding possible staff reductions and ways to improve 82208

the efficiency of the Commission's operations. 82209

**Section 145.03CC.** For any metropolitan housing authority that 82210  
is in existence when division (D) of section 3735.27 of the 82211  
Revised Code, as amended by this act, takes effect, and to which 82212  
that division applies, the board of county commissioners shall 82213  
appoint a member to fill the next vacancy that occurs due to the 82214  
expiration of the term of a member appointed by the chief 82215  
executive officer of the most populous city in the metropolitan 82216  
housing authority district. Thereafter, any vacancy in that 82217  
position shall be filled by an appointee of the board of county 82218  
commissioners and all other vacancies shall be filled in the 82219  
manner provided for the original appointments. 82220

**Section 145.03DD.** The amendment by this act of section 82221  
5747.02 of the Revised Code applies to taxable years ending on or 82222  
after the effective date of this section. 82223

**Section 145.03EE.** (A) If a court finds that any provisions 82224  
within sections 1346.04 to 1346.10 of the Revised Code conflict 82225  
and cannot be harmonized with those within sections 1346.01 to 82226  
1346.03 of the Revised Code, provisions of sections 1346.01 to 82227  
1346.03 of the Revised Code shall control. 82228

(B) If any provision within sections 1346.04 to 1346.10 of 82229  
the Revised Code causes sections 1346.01 to 1346.03 of the Revised 82230  
Code to no longer constitute a qualifying or model statute, as 82231  
those terms are defined in the Master Settlement Agreement entered 82232  
into on November 23, 1998, by the state and leading United States 82233  
tobacco product manufacturers, the provision in question shall be 82234  
invalid. If any part of sections 1346.04 to 1346.10 of the Revised 82235  
Code is for any reason held to be invalid, unlawful, or 82236  
unconstitutional, the remaining portions of those sections shall 82237  
remain valid. 82238

**Section 145.03FF.** The first report of stamping agents 82239  
required by division (A) of section 1346.07 of the Revised Code 82240  
shall be due on the last day of the month following the month in 82241  
which this act becomes effective. The first certifications of a 82242  
tobacco product manufacturer under division (A) of section 1346.05 82243  
of the Revised Code shall be due forty-five days after the 82244  
effective date of this act. The directory established in division 82245  
(B) of section 1346.05 of the Revised Code shall be published 82246  
within ninety days after the effective date of this act. 82247

**Section 145.03GG.** (A) For the purposes of section 321.24, as 82248  
amended by this act, and of section 5703.80 of the Revised Code, 82249  
as enacted by this act, the Tax Commissioner may determine the 82250  
property tax administrative fee for fiscal year 2004 at any time 82251  
after the day this act becomes law. One-half of the amount of the 82252  
fee for that year may be deducted from each of the payments made 82253  
in the fiscal year under division (F) of section 321.24 of the 82254  
Revised Code, or the full amount of the fee for the year may be 82255  
deducted from the second of those payments made in the fiscal 82256  
year. The Director of Budget and Management may transfer the fee 82257  
from the General Revenue Fund to the Property Tax Administration 82258  
Fund created under section 5703.80 of the Revised Code, as enacted 82259  
by this act, for fiscal year 2004 in three equal payments on 82260  
November 1, 2003, February 1, 2004, and May 1, 2004. 82261

(B) Within thirty days after the Tax Commissioner determines 82262  
the property tax administrative fee for fiscal year 2004 under 82263  
division (A) of this section, the Tax Commissioner shall notify 82264  
the Department of Education of the amount by which each school 82265  
district's reimbursement made under division (F) of section 321.24 82266  
of the Revised Code, as amended by this act, is to be reduced for 82267  
the Property Tax Administration Fund. 82268

**Section 145.03HH.** (A) As used in this section, "housing officer" has the same meaning as in section 3735.65 of the Revised Code. 82269  
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(B) Any complaint filed with the tax commissioner on or after the effective date of this section challenging the continued exemption of property granted an exemption by a housing officer under section 3735.67 of the Revised Code shall be certified by the tax commissioner to the housing officer. The housing officer shall proceed to hear and determine such complaint in accordance with division (E) of section 3735.67 of the Revised Code. The commissioner may hear and determine any such complaint filed with the commissioner before the effective date of this section or may certify such complaint to the housing officer for hearing and determination. 82272  
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(C) The filing date of any complaint certified to a housing officer under this section shall be considered to be the date on which the complaint was filed with the tax commissioner. 82283  
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**Section 146.01.** Except as otherwise specifically provided in this act, the codified sections of law amended or enacted in this act, and the items of law of which the codified sections of law amended or enacted in this act are composed, are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the codified sections of law amended or enacted by this act, and the items of law of which the codified sections of law as amended or enacted by this act are composed, take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such codified section of law as amended or enacted by this act, or against any item of law of which any such codified section of law as amended or enacted by 82286  
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this act is composed, the codified section of law as amended or 82299  
enacted, or item of law, unless rejected at the referendum, takes 82300  
effect at the earliest time permitted by law. 82301

**Section 146.02.** Except as otherwise specifically provided in 82302  
this act, the repeal by this act of a codified section of law is 82303  
subject to the referendum. Therefore, under Ohio Constitution, 82304  
Article II, Section 1c and section 1.471 of the Revised Code, the 82305  
repeal by this act of a codified section of law takes effect on 82306  
the ninety-first day after this act is filed with the Secretary of 82307  
State. If, however, a referendum petition is filed against any 82308  
such repeal, the repeal, unless rejected at the referendum, takes 82309  
effect at the earliest time permitted by law. 82310

**Section 146.03.** The repeal by this act of sections 122.12, 82311  
173.45, 173.46, 173.47, 173.48, 173.49, 173.50, 173.51, 173.52, 82312  
173.53, 173.54, 173.55, 173.56, 173.57, 173.58, 173.59, 1553.01, 82313  
1553.02, 1553.03, 1553.04, 1553.05, 1553.06, 1553.07, 1553.08, 82314  
1553.09, 1553.10, 1553.99, 3318.35, 3701.142, 3701.144, 4141.044, 82315  
5115.011, 5115.012, 5115.06, and 5115.061 of the Revised Code is 82316  
not subject to the referendum. Therefore, under Ohio Constitution, 82317  
Article II, Section 1d and section 1.471 of the Revised Code, the 82318  
repeals go into immediate effect when this act becomes law. 82319

**Section 146.05.** (A) Sections 117.45, 121.04, 122.658, 124.03, 82320  
126.11, 127.16, 131.23, 173.08, 323.01, 329.03, 329.04, 329.051, 82321  
340.021, 340.03, 901.21, 901.63, 901.85, 1501.04, 2101.16, 82322  
2151.3529, 2151.3530, 2305.234 (in Section 1), 2329.66, 2715.041, 82323  
2715.045, 2716.13, 2921.13, 3111.04, 3119.01, 3123.952, 3311.05, 82324  
3311.059, 3313.381, 3313.647, 3313.979, 3314.033, 3314.083, 82325  
3316.08, 3317.012, 3317.013, 3317.014, 3317.022, 3317.023, 82326  
3317.024, 3317.029, 3317.0217, 3317.03, 3317.032, 3317.05, 82327  
3317.064, 3317.07, 3317.10, 3317.16, 3318.37, 3323.16, 3332.04 (in 82328

Section 1), 3517.092, 3701.02, 3701.021, 3701.022, 3701.029, 82329  
3701.141, 3701.145 (3701.0210), 3702.31, 3702.63, 3702.68, 82330  
3702.74, 3705.24, 3709.09, 3711.021, 3721.02, 3721.19, 3721.51, 82331  
3721.56, 3721.561, 3733.43, 3733.45, 3734.28, 3734.57, 3745.40, 82332  
3748.07, 3748.13, 3769.087, 3773.43, 3781.19, 4104.01, 4104.02, 82333  
4104.04, 4104.06, 4104.07, 4104.08, 4104.15, 4104.18, 4104.19, 82334  
4104.20, 4105.17, 4112.15, 4117.14, 4123.27, 4141.09, 4501.06, 82335  
4723.06, 4723.08, 4723.082, 4723.17, 4731.65, 4731.71, 4736.12, 82336  
4747.05, 4747.06, 4747.07, 4747.10, 4755.03, 4755.031, 4771.22, 82337  
4903.24, 4905.91, 4919.79, 5101.11, 5101.14, 5101.141, 5101.142, 82338  
5101.144, 5101.145, 5101.146, 5101.1410, 5101.16, 5101.18, 82339  
5101.181, 5101.214, 5101.36, 5101.58, 5101.59, 5101.75, 5101.80, 82340  
5103.155, 5104.04, 5104.30, 5107.02, 5107.30, 5107.40, 5107.60, 82341  
5111.0113, 5111.02, 5111.025, 5111.03, 5111.06, 5111.08 82342  
(5111.071), new 5111.16, 5111.16 (5111.08), 5111.17, 5111.171, 82343  
5111.172, 5111.174, 5111.175, 5111.20, 5111.206, 5111.21, 5111.22, 82344  
5111.222, 5111.25, 5111.251, 5111.252 (5123.199), 5111.262, 82345  
5111.28, 5111.29, 5111.30, 5111.31, 5111.65, 5111.66, 5111.661, 82346  
5111.67, 5111.671, 5111.672, 5111.673, 5111.674, 5111.675, 82347  
5111.676, 5111.677, 5111.68, 5111.681, 5111.682, 5111.683, 82348  
5111.684, 5111.685, 5111.686, 5111.687, 5111.688, 5111.689, 82349  
5111.6810, 5111.85, 5111.87, 5111.871, 5111.872, 5111.873, 82350  
5111.911, 5111.912, 5111.913, 5112.03, 5112.08, 5112.17, 5115.01, 82351  
5115.02 (5115.04), 5115.03, 5115.04 (5115.02), 5115.05, 5115.07 82352  
(5115.06), 5115.10, 5115.11, 5115.12, new 5115.13, 5115.13 82353  
(5115.07), 5115.14, 5115.15 (5115.23), 5115.20, 5115.22, 5119.61, 82354  
5123.01, 5123.19, 5123.196, 5123.197, 5123.198, 5123.1910, 82355  
5123.38, 5126.01, 5126.042, 5126.12, 5153.78, 5502.13, 5709.64, 82356  
5735.05, 5735.053, 5735.23, 5735.26, 5735.291, 5735.30, and 82357  
6109.21 of the Revised Code as amended, enacted, or renumbered by 82358  
this act, and the items of law of which such sections as amended 82359  
or enacted by this act are composed, are not subject to the 82360  
referendum. Therefore, under Ohio Constitution, Article II, 82361

Section 1d and section 1.471 of the Revised Code, such sections as 82362  
amended, enacted, or renumbered by this act, and the items of law 82363  
of which such sections as amended or enacted by this act are 82364  
composed, go into immediate effect when this act becomes law. 82365

(B) Sections 3313.481, 3317.11, and 5111.173 of the Revised 82366  
Code as repealed and reenacted by this act, and the items of law 82367  
of which it is composed, is not subject to the referendum. 82368  
Therefore, under Ohio Constitution, Article II, Section 1d and 82369  
section 1.471 of the Revised Code, the section as repealed and 82370  
reenacted by this act goes into immediate effect when this act 82371  
becomes law. 82372

(C) The amendment of sections 2915.01, 2915.02, 2915.08, 82373  
2915.09, 2915.091, 2915.092, 2915.093, 2915.10, 2915.101, and 82374  
2915.13 of the Revised Code is not subject to the referendum under 82375  
Ohio Constitution, Article II, Section 1d and section 1.471 of the 82376  
Revised Code and goes into effect on July 1, 2003. 82377

(D) The amendments of sections 4503.101 and 4503.103 of the 82378  
Revised Code are not subject to the referendum under Ohio 82379  
Constitution, Article II, Section 1d and section 1.471 of the 82380  
Revised Code and go into effect on June 30, 2003. 82381

**Section 146.06.** (A) The amendment, enactment, or repeal and 82382  
reenactment by this act of sections 109.71, 122.17, 122.171, 82383  
122.71, 321.24, 715.013, 718.01, 718.02, 718.021, 718.03, 718.031, 82384  
718.05, 718.051, 718.11, 718.121, 718.15, 718.151, 2923.35, 82385  
2925.44, 2933.43, 2935.01, 3735.67, 3735.671, 4141.201, 5703.56, 82386  
5703.58, 5703.80, 5711.18, 5711.22, 5713.07, 5713.08, 5713.081, 82387  
5713.082, 5715.27, 5717.011, 5717.03, 5727.111, 5727.30, 5728.04, 82388  
5728.06, 5728.99, 5733.04, 5733.05, 5733.051, 5733.056, 5733.0511, 82389  
5733.059, 5733.0611, 5733.09, 5733.45, 5733.55, 5733.56, 5733.57, 82390  
5733.98, 5735.14, 5735.15, 5735.19, 5735.99, 5743.45 (in Section 1 82391  
of this act), 5745.01, 5745.02, 5745.04, 5745.042, 5745.044, 82392



5747.02, 5747.026, and 5747.31 of the Revised Code provides for or 82393  
is essential to implementation of a tax levy. Therefore, under 82394  
Ohio Constitution, Article II, Section 1d, the amendments, 82395  
enactments, or repeals and reenactments and the items of which 82396  
they are composed, are not subject to the referendum and go into 82397  
immediate effect when this act becomes law. 82398

(B) The amendment or enactment by this act of sections 82399  
165.09, 902.11, 4981.20, 5703.052, 5739.01, 5739.011, 5739.012, 82400  
5739.02, 5739.03, 5739.032, 5739.033 (in Section 1 of this act), 82401  
5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5739.33, 5741.01, 82402  
5741.02, 5741.121, and 5741.25, and division (E) of section 82403  
5739.025 of the Revised Code provides for or is essential to 82404  
implementation of a tax levy. Therefore, under Ohio Constitution, 82405  
Article II, Section 1d, the amendments, and the items of which 82406  
they are composed, are not subject to the referendum and go into 82407  
immediate effect when this act becomes law. 82408

(C) The amendment by this act of sections 5739.021, 5739.022, 82409  
5739.023, and 5739.026 of the Revised Code provides for or is 82410  
essential to implementation of a tax levy. Therefore, under Ohio 82411  
Constitution, Article II, Section 1d, the amendments, and the 82412  
items of which they are composed, are not subject to the 82413  
referendum and go into effect January 1, 2004. 82414

(D) The amendment by this act of sections 5739.025, 5739.10, 82415  
5741.021, 5741.022, and 5741.023 of the Revised Code provides for 82416  
or is essential to implementation of a tax levy. Therefore, under 82417  
Ohio Constitution, Article II, Section 1d, the amendments, and the 82418  
items of which they are composed, are not subject to the 82419  
referendum and, except as provided in this section, go into effect 82420  
January 1, 2006. 82421

(E) The repeal and re-enactment by this act of section 82422  
5739.034 of the Revised Code provides for or is essential to 82423  
implementation of a tax levy. Therefore, under Ohio Constitution, 82424

Article II, Section 1d, the repeal and re-enactment, and the items 82425  
of which they are composed, are not subject to the referendum and 82426  
go into effect July 1, 2003. 82427

(F) The repeal by this act of sections 5735.33, 5739.35, 82428  
5741.24, 5743.46, and 5747.60 of the Revised Code provides for or 82429  
is essential to implementation of a tax levy. Therefore, under 82430  
Ohio Constitution, Article II, Section 1d, the repeals, and the 82431  
items of which they are composed, are not subject to the 82432  
referendum and go into immediate effect when this act becomes law. 82433

**Section 146.06A.** The repeal by this act of sections 319.311, 82434  
5733.111, 5741.011, and 5747.131 of the Revised Code provides for 82435  
or is essential to implementation of a tax levy. Therefore, under 82436  
Ohio Constitution, Article II, Section 1d, the repeals, and the 82437  
items of which they are composed, are not subject to the 82438  
referendum and go into immediate effect when this act becomes law. 82439

**Section 146.07.** (A) The amendment by this act of sections 82440  
4905.79, 4931.45, 4931.47, 4931.48, 5727.32, and 5727.33 of the 82441  
Revised Code provides for or is essential to implementation of a 82442  
tax levy. Therefore, under Ohio Constitution, Article II, Section 82443  
1d, the amendments, and the items of which they are composed, are 82444  
not subject to the referendum and go into effect December 31, 82445  
2004. 82446

(B) The repeal by this act of sections 5727.39 and 5727.44 of 82447  
the Revised Code provide for or is essential to implementation of 82448  
a tax levy. Therefore, under Ohio Constitution, Article II, 82449  
Section 1d, the repeals, and the items of which they are composed, 82450  
are not subject to the referendum and go into effect December 31, 82451  
2004. 82452

**Section 146.07A.** Section 3301.31 of the Revised Code, as 82453  
repealed and reenacted by this act, and the items of law of which 82454

the section as repealed and reenacted by this act is composed, is 82455  
not subject to the referendum. Therefore, under Ohio Constitution, 82456  
Article II, Section 1d and section 1.471 of the Revised Code, the 82457  
section as repealed and reenacted is entitled to go into immediate 82458  
effect when this act becomes law. However, that section as 82459  
repealed and reenacted by this act, and the items of law of which 82460  
that section as repealed and reenacted by this act are composed, 82461  
takes effect July 1, 2004, or the day this act becomes law, 82462  
whichever is later. 82463

**Section 146.07B.** New section 3301.33 and sections 3301.34, 82464  
3301.35, 3301.36, and 3301.38, as enacted by this act, and section 82465  
3301.33 (3301.40) of the Revised Code as renumbered by this act, 82466  
and the items of law of which those sections as enacted or 82467  
renumbered by this act are composed, are not subject to the 82468  
referendum. Therefore, under Ohio Constitution, Article II, 82469  
Section 1d and section 1.471 of the Revised Code, the sections as 82470  
enacted or renumbered are entitled to go into immediate effect 82471  
when this act becomes law. However, those sections as enacted or 82472  
renumbered by this act, and the items of law of which those 82473  
sections as enacted or renumbered by this act are composed, take 82474  
effect July 1, 2004, or the day this act becomes law, whichever is 82475  
later. 82476

**Section 146.07C.** Sections 3301.37, 3301.52, 3301.53, 3301.54, 82477  
3301.55, 3307.57, and 3301.58 of the Revised Code, as amended or 82478  
enacted by this act, are not subject to the referendum. Therefore, 82479  
under Ohio Constitution, Article II, Section 1d and section 1.471 82480  
of the Revised Code the sections as amended or enacted by this 82481  
act, and the items of law of which the sections as amended or 82482  
enacted by this act are composed, are entitled to go into 82483  
immediate effect when this act becomes law. However, the sections 82484  
as amended or enacted by this act, and the items of law of which 82485  
the sections as amended or enacted by this act are composed, take 82486

effect September 1, 2003, or the day this act becomes law, 82487  
whichever is later. 82488

**Section 146.07D.** The repeal by this act of section 3301.581 82489  
of the Revised Code is not subject to the referendum under Ohio 82490  
Constitution, Article II, Section 1d and section 1.471 of the 82491  
Revised Code and goes into effect September 1, 2003, or the day 82492  
this act becomes law, whichever is later. 82493

**Section 146.11.** The amendments by this act of section 3317.01 82494  
of the Revised Code are not subject to the referendum. Therefore, 82495  
under Ohio Constitution, Article II, Section 1d and section 1.471 82496  
of the Revised Code, the section as amended, and the items of law 82497  
of which that section as amended is composed, are entitled to go 82498  
into immediate effect when this act becomes law. However, that 82499  
section as amended by this act, and the items of law of which that 82500  
section as amended by this act is composed, take effect July 1, 82501  
2004. 82502

**Section 146.12.** The version of section 3332.04 of the Revised 82503  
Code that is scheduled to take effect July 1, 2003, as amended by 82504  
this act, and the items of law of which that section as amended is 82505  
composed, are not subject to the referendum. Therefore, under Ohio 82506  
Constitution, Article II, Section 1d and section 1.471 of the 82507  
Revised Code, the section as amended by this act, and the items of 82508  
law of which that section as amended is composed, go into 82509  
immediate effect on July 1, 2003. 82510

**Section 146.13.** (A) Except as otherwise provided in division 82511  
(B) of this section, the amendments by this act to section 3745.11 82512  
of the Revised Code are not subject to the referendum. Therefore, 82513  
under Ohio Constitution, Article II, Section 1d and section 1.471 82514  
of the Revised Code, the amendments, and the items of law they 82515

contain, go into immediate effect when this act becomes law. 82516

(B) The seventh and last paragraph added to division (S)(1) 82517  
of section 3745.11 of the Revised Code by this act is subject to 82518  
the referendum. Therefore, under Ohio Constitution, Article II, 82519  
Section 1c and section 1.471 of the Revised Code, the paragraph 82520  
takes effect on the ninety-first day after this act is filed with 82521  
the Secretary of State. If, however, a referendum petition is 82522  
filed against the paragraph, or against any item of law it 82523  
contains, the paragraph or item, unless rejected at the 82524  
referendum, takes effect at the earliest time permitted by law. 82525

**Section 146.14.** The amendment by this act of the version of 82526  
section 4511.75 of the Revised Code that is scheduled to take 82527  
effect January 1, 2004, and the items of law of which that 82528  
amendment is composed, are not subject to the referendum under 82529  
Ohio Constitution, Article II, Section 1d and section 1.471 of the 82530  
Revised Code and go into effect on July 1, 2004. 82531

**Section 146.15.** (A) Except as otherwise provided in division 82532  
(B) of this section, the amendments by this act to section 4743.05 82533  
of the Revised Code are subject to the referendum. Therefore, 82534  
under Ohio Constitution, Article II, Section 1c and section 1.471 82535  
of the Revised Code, the amendments take effect on the 82536  
ninety-first day after this act is filed with the Secretary of 82537  
State. If, however, a referendum petition is filed against the 82538  
amendments, or against any item of law they contain, the 82539  
amendments or item, unless rejected at the referendum, takes 82540  
effect at the earliest time permitted by law. 82541

(B) The amendment by this act adding a reference to "4771." 82542  
to section 4743.05 of the Revised Code is not subject to the 82543  
referendum. Therefore, under Ohio Constitution, Article II, 82544  
Section 1d and section 1.471 of the Revised Code, the amendment 82545

goes into immediate effect when this act becomes law. 82546

**Section 146.15A.** (A) The amendments by this act to section 82547  
5104.01 of the Revised Code are not subject to the referendum. 82548  
Therefore, under Ohio Constitution, Article II, Section 1d and 82549  
section 1.471 of the Revised Code, the amendments, and the items 82550  
of law they contain, go into immediate effect when this act 82551  
becomes law, except as provided in division (B) of this section. 82552

(B) The amendments by this act to division (T) of section 82553  
5104.01 of the Revised Code shall take effect on July 1, 2004. 82554

**Section 146.15B.** Section 5104.02 of the Revised Code, as 82555  
amended by this act, and the items of law of which the section as 82556  
amended by this act is composed, are not subject to the 82557  
referendum. Therefore, under Ohio Constitution, Article II, 82558  
Section 1d and section 1.471 of the Revised Code the section as 82559  
amended by this act, and the items of law of which the section as 82560  
amended by this act is composed, are entitled to go into immediate 82561  
effect when this act becomes law. However, the section as amended 82562  
by this act, and the items of law of which the section as amended 82563  
by this act are composed, take effect September 1, 2003, or the 82564  
day this act becomes law, whichever is later. 82565

**Section 146.15C.** (A) The amendments by this act to section 82566  
5104.32 of the Revised Code are not subject to the referendum. 82567  
Therefore, under Ohio Constitution, Article II, Section 1d and 82568  
section 1.471 of the Revised Code, the amendments, and the items 82569  
of law they contain, go into immediate effect when this act 82570  
becomes law, except as provided in division (B) of this section. 82571

(B) The amendments by this act to division (B)(4) of section 82572  
5104.32 of the Revised Code shall take effect on September 1, 82573  
2003. 82574

**Section 146.16.** (A) Except as otherwise provided in division 82575  
(B) of this section, the amendments by this act to section 82576  
5111.022 of the Revised Code are not subject to the referendum. 82577  
Therefore, under Ohio Constitution, Article II, Section 1d and 82578  
section 1.471 of the Revised Code, the amendments, and the items 82579  
of law they contain, go into immediate effect when this act 82580  
becomes law. 82581

(B) The amendments by this act adding divisions (B)(4), (E), 82582  
and (F) to section 5111.022 of the Revised Code are subject to the 82583  
referendum. Therefore, under Ohio Constitution, Article II, 82584  
Section 1c and section 1.471 of the Revised Code, the amendments 82585  
take effect on the ninety-first day after this act is filed with 82586  
the Secretary of State. If, however, a referendum petition is 82587  
filed against the amendments, or against any item of law they 82588  
contain, the amendments or item, unless rejected at the 82589  
referendum, takes effect at the earliest time permitted by law. 82590

**Section 146.17.** Section 5112.31 of the Revised Code, as 82591  
amended by this act, and the items of law of which that section as 82592  
amended is composed, are not subject to the referendum. Therefore, 82593  
under Ohio Constitution, Article II, Section 1d and section 1.471 82594  
of the Revised Code, that section as amended by this act, and the 82595  
items of law of which that section as amended is composed, are 82596  
entitled to go into immediate effect when this act becomes law. 82597  
However, that section as amended by this act, and the items of law 82598  
which that section as amended by this act are composed, take 82599  
effect on July 1, 2003, or the day this act becomes law, whichever 82600  
is later. 82601

**Section 146.17A.** \* Section 9.24 of the Revised Code, as 82602  
enacted by this act, shall take effect January 1, 2004. 82603

**Section 146.20.** \* Section 102.02 of the Revised Code, as 82604  
amended by this act, shall take effect January 1, 2004. 82605

**Section 146.21.** \* Section 4759.08 of the Revised Code, as 82606  
amended by this act, shall take effect July 1, 2004. 82607

**Section 146.22.** \* Sections 5103.031, 5103.033, 5103.034, 82608  
5103.036, 5103.037, 5103.038, 5103.0312, 5103.0313, 5103.0314, 82609  
5103.0315, 5103.0316, 5153.60, 5153.69, and 5153.72 of the Revised 82610  
Code, as amended by this act, shall take effect on January 1, 82611  
2004. 82612

**Section 146.23.** \* Sections 5103.154 and 5153.163 of the 82613  
Revised Code as amended by this act take effect July 1, 2004. 82614

**Section 146.25.** Except as otherwise specifically provided in 82615  
this act, the uncodified sections of law amended or enacted in 82616  
this act, and the items of law of which the uncodified sections of 82617  
law amended or enacted in this act are composed, are not subject 82618  
to the referendum. Therefore, under Ohio Constitution, Article II, 82619  
Section 1d and section 1.471 of the Revised Code, the uncodified 82620  
sections of law amended or enacted in this act, and the items of 82621  
law of which the uncodified sections of law amended or enacted in 82622  
this act are composed, go into immediate effect when this act 82623  
becomes law. 82624

**Section 146.26.** Uncodified sections of law amended or enacted 82625  
in this act, and items of law contained within the uncodified 82626  
sections of law amended or enacted in this act, that are marked 82627  
with an asterisk are subject to the referendum. Therefore, under 82628  
Ohio Constitution, Article II, Section 1c and section 1.471 of the 82629  
Revised Code, the uncodified sections and items of law marked with 82630



an asterisk take effect on the ninety-first day after this act is 82631  
filed with the Secretary of State. If, however, a referendum 82632  
petition is filed against an uncodified section or item of law 82633  
marked with an asterisk, the uncodified section or item of law 82634  
marked with an asterisk, unless rejected at the referendum, takes 82635  
effect at the earliest time permitted by law. 82636

If the amending and existing repeal clauses commanding the 82637  
amendment of an uncodified section of law are both marked with 82638  
asterisks, the uncodified section as amended is deemed also to 82639  
have been marked with an asterisk. 82640

An asterisk marking an uncodified section or item of law has 82641  
the form \*. 82642

This section defines the meaning and form of, but is not 82643  
itself to be considered marked with, an asterisk. 82644

**Section 146.28.** The repeal by this act of the following 82645  
uncodified sections of law is not subject to the referendum and 82646  
therefore, under Ohio Constitution, Article II, Section 1d and 82647  
section 1.471 of the Revised Code, goes into immediate effect when 82648  
this act becomes law: 82649

(A) Section 11 of Am. Sub. S.B. 50 of the 121st General 82650  
Assembly; 82651

(B) Section 129 of Am. Sub. H.B. 283 of the 123rd General 82652  
Assembly; 82653

(C) Section 63.37 of Am. Sub. H.B. 94 of the 124th General 82654  
Assembly; 82655

(D) Section 16 of Am. Sub. H.B. 87 of the 125th General 82656  
Assembly. 82657

**Section 146.29.** If the amendment or enactment in this act of 82658  
a codified or uncodified section of law is subject to the 82659

referendum, the corresponding indications in the amending, 82660  
enacting, or existing repeal clauses commanding the amendment or 82661  
enactment also are subject to the referendum, along with the 82662  
amendment or enactment. If the amendment or enactment by this act 82663  
of a codified or uncodified section of law is not subject to the 82664  
referendum, the corresponding indications in the amending, 82665  
enacting, or existing repeal clauses commanding the amendment or 82666  
enactment also are not subject to the referendum, the same as the 82667  
amendment or enactment. 82668

**Section 147.01.** \* The amendment of section 122.25 of the 82669  
Revised Code by this act is not intended to supersede the earlier 82670  
repeal, with delayed effective date, of that section. 82671

**Section 147.02.** \* Section 921.151 was amended and renumbered 82672  
as section 921.22 of the Revised Code by Am. Sub. S.B. 217 of the 82673  
124th General Assembly, passed November 21, 2002, and effective 82674  
July 1, 2004. The amendment of section 921.151 of the Revised Code 82675  
in Section 1 of this act does not supersede that earlier amendment 82676  
and renumbering. This act therefore amends both sections to ensure 82677  
that its amendments continue on and after July 1, 2004. 82678

**Section 147.03.** The amendment by this act of sections 5112.03 82679  
and 5112.08 of the Revised Code is not intended to supersede the 82680  
earlier repeal, with delayed effective date, of those sections. 82681  
82682

**Section 147.04.** The amendment by this act of section 5112.99 82683  
of the Revised Code is not intended to supersede the earlier 82684  
repeal, with delayed effective date, of that section. 82685

**Section 148.01.** \* Section 109.572 of the Revised Code is 82686  
presented in this act as a composite of the section as amended by 82687

both Sub. H.B. 448 and Sub. H.B. 538 of the 123rd General 82688  
Assembly. The General Assembly, applying the principle stated in 82689  
division (B) of section 1.52 of the Revised Code that amendments 82690  
are to be harmonized if reasonably capable of simultaneous 82691  
operation, finds that the composite is the resulting version of 82692  
the section in effect prior to the effective date of the section 82693  
as presented in this act. 82694

**Section 148.01A.** Section 109.71 of the Revised Code is 82695  
presented in this act as a composite of the section as amended by 82696  
both Sub. H.B. 545 and H.B. 675 of the 124th General Assembly. The 82697  
General Assembly, applying the principle stated in division (B) of 82698  
section 1.52 of the Revised Code that amendments are to be 82699  
harmonized if reasonably capable of simultaneous operation, finds 82700  
that the composite is the resulting version of the section in 82701  
effect prior to the effective date of the section as presented in 82702  
this act. 82703

**Section 148.02.** Section 121.04 of the Revised Code is 82704  
presented in this act as a composite of the section as amended by 82705  
both Sub. H.B. 601 and Am. Sub. H.B. 640 of the 123rd General 82706  
Assembly. The General Assembly, applying the principle stated in 82707  
division (B) of section 1.52 of the Revised Code that amendments 82708  
are to be harmonized if reasonably capable of simultaneous 82709  
operation, finds that the composite is the resulting version of 82710  
the section in effect prior to the effective date of the section 82711  
as presented in this act. 82712

**Section 148.02A.** Section 122.171 of the Revised Code is 82713  
presented in this act as a composite of the section as amended by 82714  
both H.B. 675 and Am. Sub. S.B. 180 of the 124th General Assembly. 82715  
The General Assembly, applying the principle stated in division 82716  
(B) of section 1.52 of the Revised Code that amendments are to be 82717

harmonized if reasonably capable of simultaneous operation, finds 82718  
that the composite is the resulting version of the section in 82719  
effect prior to the effective date of the section as presented in 82720  
this act. 82721

**Section 148.02B.** Section 124.15 of the Revised Code is 82722  
presented in this act as a composite of the section as amended by 82723  
both Am. Sub. H.B. 640 and Sub. S.B. 245 of the 123rd General 82724  
Assembly. The General Assembly, applying the principle stated in 82725  
division (B) of section 1.52 of the Revised Code that amendments 82726  
are to be harmonized if reasonably capable of simultaneous 82727  
operation, finds that the composite is the resulting version of 82728  
the section in effect prior to the effective date of the section 82729  
as presented in this act. 82730

**Section 148.02C.** The version of section 2152.19 of the 82731  
Revised Code that is scheduled to take effect January 1, 2004, is 82732  
presented in this act as a composite of the section as amended by 82733  
both Am. Sub. H.B. 400 and Am. Sub. H.B. 490 of the 124th General 82734  
Assembly. The General Assembly, applying the principle stated in 82735  
division (B) of section 1.52 of the Revised Code that amendments 82736  
are to be harmonized if reasonably capable of simultaneous 82737  
operation, finds that the composite is the resulting version of 82738  
the section in effect prior to the effective date of the section 82739  
as presented in this act. 82740

**Section 148.03.** \* The version of section 2305.234 of the 82741  
Revised Code that is scheduled to take effect January 1, 2004, is 82742  
presented in this act as a composite of the section as amended by 82743  
both Am. Sub. H.B. 490 and Am. Sub. S.B. 281 of the 124th General 82744  
Assembly. The General Assembly, applying the principle stated in 82745  
division (B) of section 1.52 of the Revised Code that amendments 82746  
are to be harmonized if reasonably capable of simultaneous 82747

operation, finds that the composite is the resulting version of 82748  
the section in effect prior to the effective date of the section 82749  
as presented in this act. 82750

**Section 148.04.** Section 2743.02 of the Revised Code is 82751  
presented in this act as a composite of the section as amended by 82752  
both Am. Sub. S.B. 115 and Am. Sub. S.B. 281 of the 124th General 82753  
Assembly. The General Assembly, applying the principle stated in 82754  
division (B) of section 1.52 of the Revised Code that amendments 82755  
are to be harmonized if reasonably capable of simultaneous 82756  
operation, finds that the composite is the resulting version of 82757  
the section in effect prior to the effective date of the section 82758  
as presented in this act. 82759

**Section 148.04A.** Section 2917.41 of the Revised Code is 82760  
presented in this act as a composite of the section as amended by 82761  
both Am. H.B. 61 and Am. Sub. S.B. 2 of the 121st General 82762  
Assembly. The General Assembly, applying the principle stated in 82763  
division (B) of section 1.52 of the Revised Code that amendments 82764  
are to be harmonized if reasonably capable of simultaneous 82765  
operation, finds that the composite is the resulting version of 82766  
the section in effect prior to the effective date of the section 82767  
as presented in this act. 82768

**Section 148.04B.** Section 2935.01 of the Revised Code is 82769  
presented in this act as a composite of the section as amended by 82770  
both Sub. H.B. 545 and H.B. 675 of the 124th General Assembly. The 82771  
General Assembly, applying the principle stated in division (B) of 82772  
section 1.52 of the Revised Code that amendments are to be 82773  
harmonized if reasonably capable of simultaneous operation, finds 82774  
that the composite is the resulting version of the section in 82775  
effect prior to the effective date of the section as presented in 82776  
this act. 82777

**Section 148.06.** Section 3317.012 of the Revised Code is 82778  
presented in this act as a composite of the section as amended by 82779  
both Am. Sub. H.B. 94 and Am. Sub. S.B. 1 of the 124th General 82780  
Assembly. The General Assembly, applying the principle stated in 82781  
division (B) of section 1.52 of the Revised Code that amendments 82782  
are to be harmonized if reasonably capable of simultaneous 82783  
operation, finds that the composite is the resulting version of 82784  
the section in effect prior to the effective date of the section 82785  
as presented in this act. 82786

**Section 148.07.** Section 3319.07 of the Revised Code is 82787  
presented in this act as a composite of the section as amended by 82788  
both Am. Sub. H.B. 117 and Am. Sub. H.B. 223 of the 121st General 82789  
Assembly. The General Assembly, applying the principle stated in 82790  
division (B) of section 1.52 of the Revised Code that amendments 82791  
are to be harmonized if reasonably capable of simultaneous 82792  
operation, finds that the composite is the resulting version of 82793  
the section in effect prior to the effective date of the section 82794  
as presented in this act. 82795

**Section 148.08.** Section 3319.36 of the Revised Code is 82796  
presented in this act as a composite of the section as amended by 82797  
both Sub. H.B. 81 and Am. Sub. S.B. 230 of the 121st General 82798  
Assembly. The General Assembly, applying the principle stated in 82799  
division (B) of section 1.52 of the Revised Code that amendments 82800  
are to be harmonized if reasonably capable of simultaneous 82801  
operation, finds that the composite is the resulting version of 82802  
the section in effect prior to the effective date of the section 82803  
as presented in this act. 82804

**Section 148.08A.** Section 4303.181 of the Revised Code is 82805  
presented in this act as a composite of the section as amended by 82806

both Sub. H.B. 330 and Sub. H.B. 371 of the 124th General 82807  
Assembly. The General Assembly, applying the principle stated in 82808  
division (B) of section 1.52 of the Revised Code that amendments 82809  
are to be harmonized if reasonably capable of simultaneous 82810  
operation, finds that the composite is the resulting version of 82811  
the section in effect prior to the effective date of the section 82812  
as presented in this act. 82813

**Section 148.11.** \* Section 4973.17 of the Revised Code is 82814  
presented in this act as a composite of the section as amended by 82815  
both Am. Sub. H.B. 566 and Sub. H.B. 670 of the 121st General 82816  
Assembly. The General Assembly, applying the principle stated in 82817  
division (B) of section 1.52 of the Revised Code that amendments 82818  
are to be harmonized if reasonably capable of simultaneous 82819  
operation, finds that the composite is the resulting version of 82820  
the section in effect prior to the effective date of the section 82821  
as presented in this act. 82822

**Section 148.12.** Section 5111.20 of the Revised Code is 82823  
presented in this act as a composite of the section as amended by 82824  
both Sub. H.B. 403 and Sub. H.B. 448 of the 123rd General 82825  
Assembly. The General Assembly, applying the principle stated in 82826  
division (B) of section 1.52 of the Revised Code that amendments 82827  
are to be harmonized if reasonably capable of simultaneous 82828  
operation, finds that the composite is the resulting version of 82829  
the section in effect prior to the effective date of the section 82830  
as presented in this act. 82831

**Section 148.13.** Section 5115.01 of the Revised Code is 82832  
presented in this act as a composite of the section as amended by 82833  
both Am. Sub. H.B. 283 and H.B. 471 of the 123rd General Assembly. 82834  
The General Assembly, applying the principle stated in division 82835  
(B) of section 1.52 of the Revised Code that amendments are to be 82836

harmonized if reasonably capable of simultaneous operation, finds 82837  
that the composite is the resulting version of the section in 82838  
effect prior to the effective date of the section as presented in 82839  
this act. 82840

**Section 148.14.** \* Section 5709.62 of the Revised Code is 82841  
presented in this act as a composite of the section as amended by 82842  
both Am. Sub. H.B. 283 and Sub. H.B. 27 of the 123rd General 82843  
Assembly. The General Assembly, applying the principle stated in 82844  
division (B) of section 1.52 of the Revised Code that amendments 82845  
are to be harmonized if reasonably capable of simultaneous 82846  
operation, finds that the composite is the resulting version of 82847  
the section in effect prior to the effective date of the section 82848  
as presented in this act. 82849

**Section 148.15.** \* Section 5709.63 of the Revised Code is 82850  
presented in this act as a composite of the section as amended by 82851  
both Am. Sub. H.B. 283 and Sub. H.B. 27 of the 123rd General 82852  
Assembly. The General Assembly, applying the principle stated in 82853  
division (B) of section 1.52 of the Revised Code that amendments 82854  
are to be harmonized if reasonably capable of simultaneous 82855  
operation, finds that the composite is the resulting version of 82856  
the section in effect prior to the effective date of the section 82857  
as presented in this act. 82858

**Section 148.16.** Section 5733.04 of the Revised Code is 82859  
presented in this act as a composite of the section as amended by 82860  
both Sub. S.B. 200 and Am. Sub. S.B. 261 of the 124th General 82861  
Assembly. The General Assembly, applying the principle stated in 82862  
division (B) of section 1.52 of the Revised Code that amendments 82863  
are to be harmonized if reasonably capable of simultaneous 82864  
operation, finds that the composite is the resulting version of 82865  
the section in effect prior to the effective date of the section 82866



as presented in this act. 82867

**Section 148.17.** Section 5735.05 of the Revised Code is 82868  
presented in this act as a composite of the section as amended by 82869  
both H.B. 612 and Am. Sub. H.B. 640 of the 123rd General Assembly. 82870  
The General Assembly, applying the principle stated in division 82871  
(B) of section 1.52 of the Revised Code that amendments are to be 82872  
harmonized if reasonably capable of simultaneous operation, finds 82873  
that the composite is the resulting version of the section in 82874  
effect prior to the effective date of the section as presented in 82875  
this act. 82876

**Section 148.18.** Section 5735.23 of the Revised Code is 82877  
presented in this act as a composite of the section as amended by 82878  
both H.B. 612 and Am. Sub. H.B. 640 of the 123rd General Assembly. 82879  
The General Assembly, applying the principle stated in division 82880  
(B) of section 1.52 of the Revised Code that amendments are to be 82881  
harmonized if reasonably capable of simultaneous operation, finds 82882  
that the composite is the resulting version of the section in 82883  
effect prior to the effective date of the section as presented in 82884  
this act. 82885

**Section 148.19.** Section 5739.01 of the Revised Code was 82886  
amended by Am. Sub. H.B. 524, Am. Sub. S.B. 143, and Sub. S.B. 82887  
200, all of the 124th General Assembly. Comparison of these 82888  
amendments in pursuance of section 1.52 of the Revised Code 82889  
discloses that while certain of the amendments of these acts are 82890  
reconcilable, certain other of the amendments are substantively 82891  
irreconcilable. Am. Sub. H.B. 524 was passed on March 21, 2002; 82892  
Am. Sub. S.B. 143 was passed on January 30, 2002; Sub. S.B. 200 82893  
was passed on March 13, 2002. Section 5739.01 of the Revised Code 82894  
is therefore presented in this act as it results from Am. Sub. 82895  
H.B. 524 and Sub. S.B. 200 and such of the amendments of Am. Sub. 82896

S.B. 143 as are not in conflict with the amendments of Sub. S.B. 82897  
200. The General Assembly, applying the principle stated in 82898  
division (B) of section 1.52 of the Revised Code that amendments 82899  
are to be harmonized if reasonably capable of simultaneous 82900  
operation, finds that the composite is the resulting version of 82901  
the section in effect prior to the effective date of the section 82902  
as presented in this act. 82903

**Section 148.19A.** Section 5741.01 of the Revised Code is 82904  
presented in this act as a composite of the section as amended by 82905  
Am. Sub. H.B. 524, Am. Sub. S.B. 143, and Sub. S.B. 200, all of 82906  
the 124th General Assembly. The General Assembly, applying the 82907  
principle stated in division (B) of section 1.52 of the Revised 82908  
Code that amendments are to be harmonized if reasonably capable of 82909  
simultaneous operation, finds that the composite is the resulting 82910  
version of the section in effect prior to the effective date of 82911  
the section as presented in this act. 82912

**Section 148.19B.** Section 5743.45 of the Revised Code is 82913  
presented Section 1 of in this act as a composite of the section 82914  
as amended by both Am. Sub. H.B. 566 and Sub. H.B. 670 of the 82915  
121st General Assembly. The General Assembly, applying the 82916  
principle stated in division (B) of section 1.52 of the Revised 82917  
Code that amendments are to be harmonized if reasonably capable of 82918  
simultaneous operation, finds that the composite is the resulting 82919  
version of the section in effect prior to the effective date of 82920  
the section as presented in this act. 82921

**Section 149.** If any item of law that constitutes the whole or 82922  
part of a codified or uncodified section of law contained in this 82923  
act, or if any application of any item of law that constitutes the 82924  
whole or part of a codified or uncodified section of law contained 82925  
in this act, is held invalid, the invalidity does not affect other 82926  
items of law or applications of items of law that can be given 82927

effect without the invalid item of law or application. To this	82928
end, the items of law of which the codified and uncodified	82929
sections contained in this act are composed, and their	82930
applications, are independent and severable.	82931